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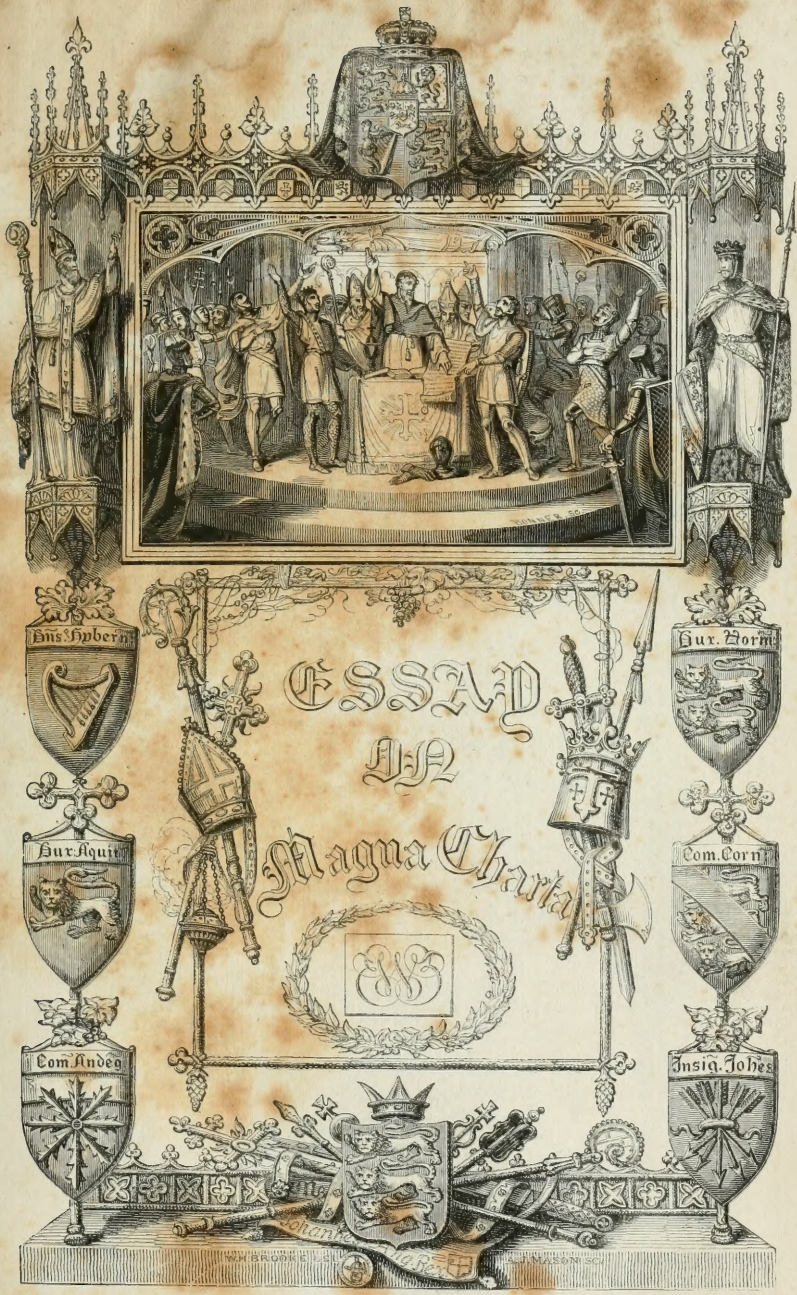
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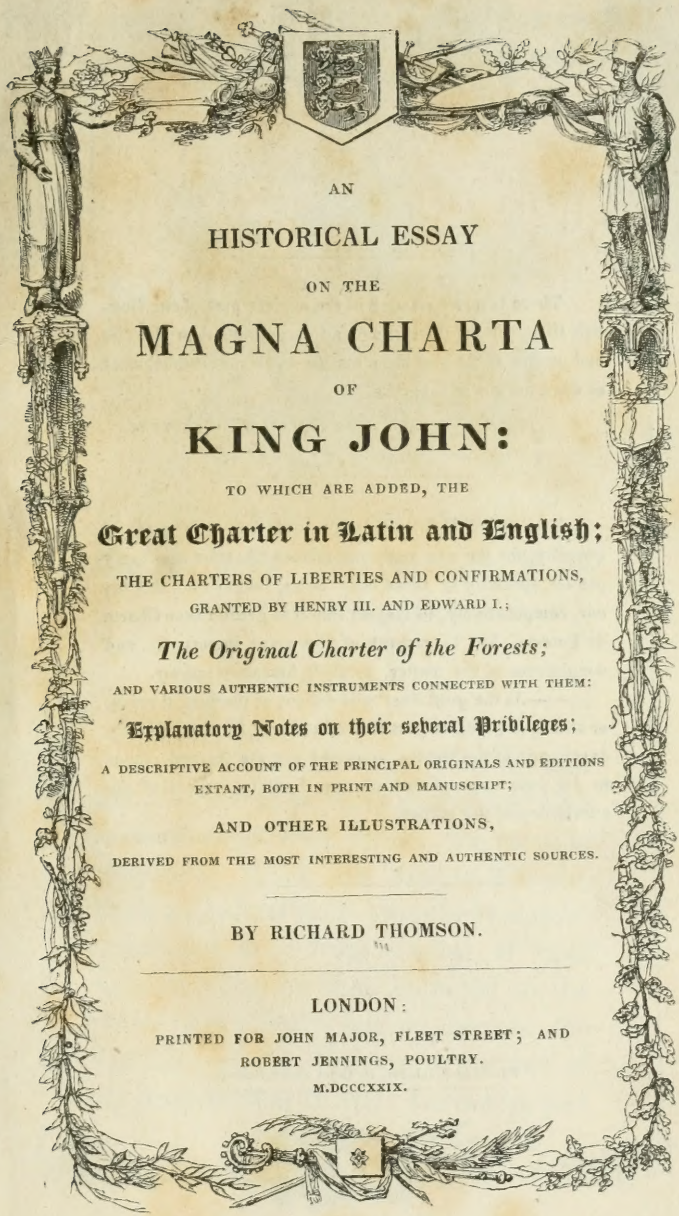
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ESSAY
ON
Magna Charta

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AN

HISTORICAL ESSAY

ON THE

MAGNA CHARTA

OF

KING JOHN:

TO WHICH ARE ADDED, THE

Great Charter in Latin and English;

THE CHARTERS OF LIBERTIES AND CONFIRMATIONS,
GRANTED BY HENRY III. AND EDWARD I.;

The Original Charter of the Forests;

AND VARIOUS AUTHENTIC INSTRUMENTS CONNECTED WITH THEM:

Explanatory Notes on their several Privileges;

A DESCRIPTIVE ACCOUNT OF THE PRINCIPAL ORIGINALS AND EDITIONS EXTANT, BOTH IN PRINT AND MANUSCRIPT;

AND OTHER ILLUSTRATIONS,

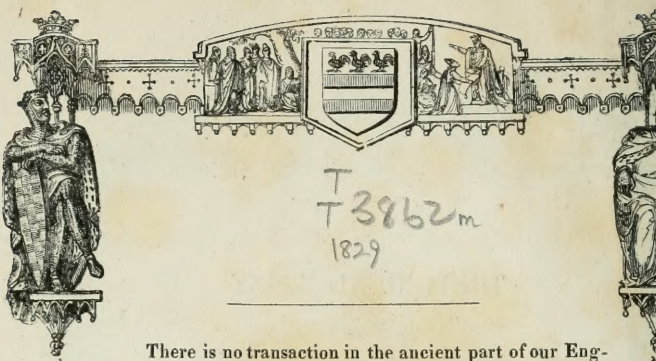
DERIVED FROM THE MOST INTERESTING AND AUTHENTIC SOURCES.

BY RICHARD THOMSON.

LONDON:

PRINTED FOR JOHN MAJOR, FLEET STREET; AND
ROBERT JENNINGS, POULTRY.

M.DCCCXXIX.



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1829

There is no transaction in the ancient part of our English History more interesting and important, than the rise and progress, the gradual mutation and final establishment of the Charters of Liberties.

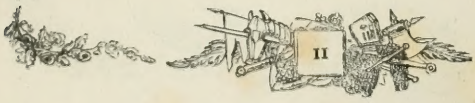
SIR WILLIAM BLACKSTONE.

It is called MAGNA CHARTA, not that it is great in quantity, for there be many voluminous Charters commonly passed, specially in these later times, longer than this is; nor, comparatively, in respect that it is greater than Charta de Foresta, but in respect of the great importance and weightiness of the matter, as shall hereafter appear.

——As the gold-finer will not out of the dust, threads, or shreds of gold, let pass the least crumb, in respect of the excellency of the metal; so ought not the learned reader to let pass any syllable of THIS LAW in respect of the excellency of the matter.

SIR EDWARD COKE.

Printed by J. Johnson, 10, Brook Street, Holborn.





TO THE RIGHT HONOURABLE

George John, Earl Spencer, K.G.

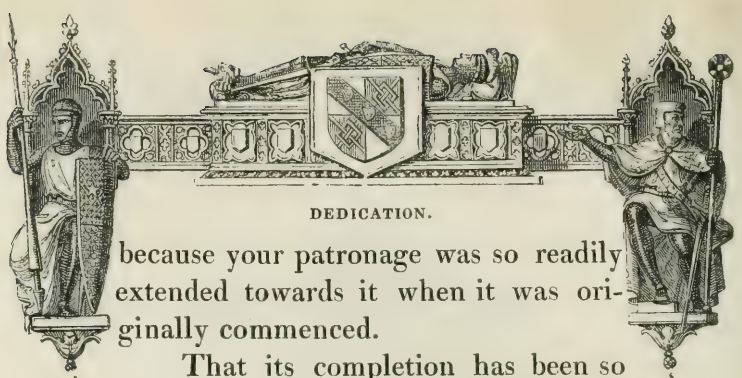
VISCOUNT ALTHORP,

ETC. ETC. ETC.

My Lord,

I have at length the honour and pleasure of publicly inscribing with your distinguished Name, the ensuing Historical Work on Magna Charta. Such a Dedication is singularly appropriate, not only from several of your Ancestors having been engaged in the events here related; but also because the first idea of this Volume arose out of my introduction to your Lordship, and

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because your patronage was so readily extended towards it when it was originally commenced.

That its completion has been so long delayed, has been to myself a constant source of regret; yet I would fain hope that the Work is certainly now far more worthy of your Lordship's acceptance, than it could have proved had it appeared in the imperfect state in which it was first designed. Still, however, it affords me the highest gratification, that it is produced under such protection as your Lordship's; and I feel no less delight in being thus permitted to subscribe myself publicly, as I have so frequently done in private,

My Lord,

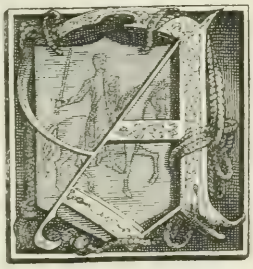
Your Lordship's most Obliged,

Obedient, and Faithful Servant,

RICHARD THOMSON.

May 1, 1829.

PREFACE.



FTER a very extended, though unexpected, delay, the HISTORICAL ESSAY ON MAGNA CHARTA, is now presented to the Public; with a hope that it will readily be perceived, that the time occupied in its completion, has been also actively employed in its amplification and improvement.

Perhaps there is no event of the History of England, which is more popularly remembered and referred to, than the granting of the Great Charter by King John: whilst at the same time it is probable, that there is no circumstance which is more imperfectly and erroneously understood: although it may fairly be viewed as a subject, concerning which it may almost be considered as the *duty* of every English-

man to possess accurate ideas, and somewhat more than ordinary information. For this reason it has been excellently recorded and explained, by many of the best Authors in the noble host of English Historians and Commentators; and by Sir Edward Coke, and Sir William Blackstone in particular:—yet their works are often supposed to require a degree of historical, or legal knowledge, which general readers consider that they do not possess; and, therefore, a familiar account and explanation of the principal circumstances and contents of the Charters of Liberties appeared to be still wanting. Such was the origin of the present volume, which was at first intended to be confined to the Magna Charta of King John; but various and unavoidable delays having prevented its progress through the Press, the Editor seized the opportunity of including in it a general view and explanation of the whole series of English Charters, with accounts of the events, principal persons, and historical documents and illustrations, connected with them,

translated into English, and laid before the reader in the most familiar manner; that nothing might be wanting which a work like the present would be expected to contain. A reference to the Table of Contents, however, will be the best statement of the information and materials of the following pages, and the labour of collecting and arranging them, will probably be readily allowed upon their perusal; and, perhaps, atone for the lapse which has taken place between the announcement of this volume and its completion, which none have regretted more sincerely than the Editor.

As the principal books connected with this subject are fully described in a subsequent article, and the very numerous authorities consulted for this work will be found in the Index, it is evident that the ensuing pages must have in them more of research than originality; because History is for the most part repetition, the only novelty of which it is capable being the detection of former errors, or the addition of curious or undiscovered illustrations and

proofs. The highly decorative character of the present volume, has allowed of the introduction of several of the most interesting of those illustrations connected with its subject, in the numerous embellishments with which its Proprietors have so liberally adorned its pages. These consist of Fac-similæ of the Charters of Liberties, Tombs, Monumental Effigies, Armorial Ensigns, and Seals. The chief intent of this volume, however, is to furnish familiar and correct views of one of the most famous events in the annals of England; and much gratified will the Editor be, if it should be found adequate to that object; for if any fact should be placed in a clearer light, or any misconception be rectified by its statements, the labours of its compilation will not have been in vain.

DESCRIPTIVE LIST

OF

THE EMBELLISHMENTS.

1. Frontispiece Title:—A rich design of Gothic architecture and foliage, enclosing Regal, Ecclesiastical, and Military emblems, and connecting, at the sides, the Armorial Ensigns belonging to John as King of England, Lord of Ireland, Duke of Normandy and Aquitaine, Earl of Cornwall and Anjou, and his badge; surmounted by scrolls bearing their respective names in Latin, in the hand-writing of his Great Charter. The centre above consists of a Gothic canopy, bearing the Royal Arms of His present Majesty, King George the Fourth, and a line of escutcheons of some of the principal of the Twenty-five Baronial Securities to the Magna Charta of King John. Beneath is a representation of the solemn discovery of the Charter of Liberties granted by Henry I., by Cardinal Stephen Langton, Archbishop of Canterbury, to the assembled Barons of England at the Abbey of St. Edmund's Bury; when they swore to support it, and procure its confirmation from John, as described on pages 12, 13, of the present volume. The painting whence this subject was in part copied, is preserved in the Picture Gallery at Oxford, and is certainly one of the most correct designs in its costume, &c. ever produced from the history of Magna Charta: since its large dimensions of 12 feet by 10, enabled Mr. W. Martin, the Artist, to identify most of the principal characters by their Armorial Ensigns. The scene is laid at an altar in front of the tomb of St. Edmund the King, close to which stands Cardinal Langton, pointing to the newly-discovered Charter of Henry I., and encouraging the Barons to swear to support it. One aged Prelate is holding the instrument, and several other ecclesiastics appear in the back-ground. On the right of the Archbishop stands a figure intended for William Marshall, the younger, and on the left appears Geoffrey de Mandeville, Earl of Essex and Gloucester, with Robert Fitz-Walter standing between them; all of whom were afterwards Securities for carrying into effect the Great Charter of King John. On the left, in front, is Robert de Vere, Earl of Oxford, next to whom is Roger Bigod, Earl of Norfolk; and others of the principal Barons are assembled in the back. On each side of this design in the Frontispiece of the present volume, is a Gothic tabernacle, within which stand two effigies, representing Cardinal Langton, and Henry de Bohun, Earl of Hereford, another of the Baronial Securities to Magna Charta. Designed and Drawn by W. H. Brooke; Engraved by A. J. Mason; the Subject in the centre by G. W. Bonner.

2. Title-Page, Border:—The design is a general allusion to the manner in which the Great Charter was obtained; and consists of the figure of King John, taken from his monument at Worcester, resigning Magna Charta to a Baron who appears on the opposite side in complete armour,

holding his sword and leaning on a pile of weapons. On the left of the centre shield is a representation of the royal mound used by King John, taken from his Great Seal. The palm branches entwined with the crosier and cross at the lower part of the page, refer to the success of the ecclesiastical power in the reign of this Sovereign. Drawn by the late J. Thurston; Engraved by J. Thompson.

3. Page ii. Border emblematical of the Constitutional privileges of the English Barons; in the centre the institution of the Trial by a Jury of equals, protected by chap. xxxix of the Great Charter, see also page 223, &c. of the following notes. At the sides are two figures of William, Earl of Warren and another Baron, in their habits of state, and beneath is a group formed of the armour and weapons, which the heir of a Baron gave as a relief to the King; see Notes to the Great Charters, page 164. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

4. Page iii. Dedication: Border emblematical of the dignity and constitutional privileges of the English Barons, as procured in the Great Charter of King John. In the centre is a representation of the Sovereign attended by his Prelates, &c. giving that instrument to Fitz-Walter and others of his Barons; taken from the splendid painted window in the Baronial Hall at Arundel Castle, executed by Mr. Backler. At the sides are effigies of Roger Bigod, Earl of Norfolk, and Robert Fitz-Walter, two of the Baronial Securities to Magna Charta, habited in their arms and robes, likewise from windows in the same mansion, whence, also, some of the side figures on the other pages of this volume have been selected: the border beneath consists of a group of armour and weapons belonging to the former Baron. Drawn by W. H. Brooke; Engraved by the late W. Hughes.

5. Page iii. Headpiece: Armorial Ensigns and Supporters of the Right Honourable the Earl Spencer. Engraved by G. W. Bonner.

6. Page iv. Borders emblematical of the dignity and peerage of the English Barons; in the centre the tomb and effigy of Robert de Vere, Earl of Oxford, one of the Baronial Securities to the Magna Charta of King John, see the ensuing Notes, pages 281, 282. At the sides are the figures of that Baron and Almeric de Sancto Mauro, Master of the Knights-Templars in England, in their proper habits; and beneath is a group of arms and foliage. Drawn by W. H. Brooke; Engraved by the late W. Hughes.

7. Page v. Preface: Initial Letter A. An escutcheon bearing an equestrian figure of King John, from the reverse of his Great Seal. Drawn by the late J. Thurston; Engraved by the late W. Hughes.

8. Page vi. Borders emblematical of Forest sports and laws: consisting of an axe, quiver, and bow and arrow, enwreathed with foliage, and supported by the heads of deer. Drawn by W. Harvey, and the late J. Thurston. Engraved by H. White.

9. Page vii. Borders emblematical of Forest sports and laws, consisting of a spear, bugle-horn, bow, quiver, and arrows, enwreathed with ivy foliage, and supported by heads of greyhounds, which were prohibited in the English Forests, excepting by special license. See Notes on the Forest Charters, page 363. Drawn by the late J. Thurston; Engraved by H. White.

10. Page viii. Borders of Military emblems, including spear, sword, banner, shield, and bugle; wreathed with oak, and supported by heads of war-horses. Drawn by the late J. Thurston; Engraved by the late W. Hughes.

11. Page x. Borders of Ecclesiastical emblems, the crosier, mitre, and censer, supported by heads of cherubim. Drawn by the late J. Thurston; Engraved by H. White.

12. Page xi. Borders of Ecclesiastical emblems, supported by angels. Drawn and Engraved by the same.

13. Page xii. Borders emblematical of Forest sports and laws, concerning birds, and the keeping of hawks, falcons, &c. which are represented at the centre and sides, interspersed with forest-plants and flowers, cross-bows and arrows, dead game, hawk's hood, jesses, &c. and an axe indicative of the severe penalty annexed to the ancient game-laws. Drawn by W. H. Brooke; Engraved by the late W. Hughes.

14. Page xiii. Borders emblematical of Forest sports and laws, concerning birds, and the keeping of fowls of chase: at the sides a falcon feeding on his prey, and a hawk on his perch dressed for hunting, herons and a pheasant in the centre, with dead-game, cross-bows and arrows, and forest-plants and flowers interspersed. Drawn and Engraved by the same.

15. Page xiv. Borders emblematical of the military duties of the English Barons; the royal camp in the centre, and at the sides two Barons armed for Knight's-service and the Crusade, one watching a beacon, and the other holding the banner of Jerusalem: beneath a group formed of a battering-ram, scaling-ladder, sword, and banner. Drawn and Engraved by the same.

16. Page xv. Borders emblematical of the ancient military duty of Castle-guard, see chap. xxix. of Magna Charta, and page 211 of the Notes; in the centre a royal fortress, and at the sides two knights armed for keeping guard; beneath a group formed of an ancient mace, cross-bows, quarrels, &c. Drawn and Engraved by the same.

17. Page xvi. Borders emblematical of the Norman Sovereigns of France, containing the ancient crown and sceptre, lily-flowers, &c. supported by heads of the royal leopards of Normandy. Drawn by the late J. Thurston; Engraved by H. White.

18. Page xvii. Borders emblematical of the Norman Sovereigns of England; consisting of the mound, crown, and sceptre, wreathed with oak and roses, and supported by heads of the royal leopards of Normandy. Drawn and Engraved by the same.

19. Page xviii. Borders emblematical of Forest sports and laws; sword, greyhound, &c. supported by the heads of a fox and a hind, two of the protected animals in the royal woods. See Notes on the Forest Charters, page 341. Drawn by W. H. Brooke; Engraved by the late W. Hughes.

20. Page xix. Borders emblematical of Forest sports and laws; spears, arrows, cross-bow, &c. and the species of mastiff allowed to be generally kept in the Forests, see Notes on the Forest Charters, page 363, supported by the heads of a wolf and a boar, which were prohibited to be killed in the royal woods. Drawn and Engraved by the same.

21. Page xxi. Borders emblematical of the dignity of the Ecclesiastics of England; in the centre are the tomb and effigy of Hubert Walter, Archbishop of Canterbury, one of the principal supporters of King John. At the sides are figures of a Cardinal Legate and an Archbishop, in their proper habits, and beneath is a group of palm and ecclesiastical emblems. Drawn and Engraved by the same.

22. Page xxii. Borders alluding to the ancient English Laws concerning Rivers, contained in the Great and Forest Charters; the prohibited wears, nets, and dams, for fish, and an emblematical figure of the

Thames, which is particularly guarded in chap. xxxiii of Magna Charta: at the sides are suspended various sorts of river-fish. Drawn by W. H. Brooke; Engraved by the late R. Branston.

23. Page xxiii. Borders alluding to the ancient English Laws concerning Rivers, contained in the Great and Forest Charters; an emblematical figure of the Medway, surrounded by the nets prohibited to be placed therein, by chap. xxxiii. of Magna Charta, with an antique ship, anchor, and various kinds of fish suspended on ancient oars at the sides. Drawn and Engraved by the same.

24. Page xxv. Borders of Military emblems, comprising swords, spears, bugle, helmet, and shirt of mail; on the left of the centre shield is the double cross, a badge worn by the Knights Templars, and on the right their celebrated banner "Beau-seant," parted black and white, the former alluding to their hatred to infidels, and the latter to their friendship towards christians. These emblems are intended particularly to refer to Almeric de Sancto-Mauro, Master of the Knights Templars in England, and a witness to Magna Charta on the behalf of King John, see pages 64, 65; and his arms will be found in the shield on page 71. The present border is supported by lions heads wreathed with laurel, alluding to the success and fierceness of the English Barons. Drawn by the late J. Thurston; Engraved by the late W. Hughes.

25. Page 1. Essay on Magna Charta. Initial Letter T. Cardinal Pandulphus, the Papal Legate, receiving the crown of England from King John; an account of which ceremony will be found on pages 18, 485, 486, of the present volume. Drawn and Engraved by the same.

26. Page 48. Essay on Magna Charta. Tailpiece: Painted window containing the portraits of eleven English Sovereigns who improved the Laws of the realm, or granted Charters of Liberties, for a particular account of which see pages 396-444. The portraits represent Ælfred the Great, Canute, Edward the Confessor, William I. and II., Henry I., Stephen, Henry II., John, Henry III., and Edward I. Drawn by W. H. Brooke; Engraved by J. Thompson.

27. Page 49. Articles of the Great Charter. Initial Letter A, formed of a pile of spears, &c. in the back-ground a soldier on watch, with the Baronial encampment on Runnemede, and Windsor Castle. Drawn by the late J. Thurston; Engraved by the late W Hughes.

28. Page 61. Articles of Magna Charta, Tailpiece: Ancient Norman ruins, looking towards the Baronial encampment on the river banks, and Magna Charta Island, where the instrument was concluded; see page 526. Drawn by W. H. Brooke; Engraved by the late W. Hughes.

29. Page 62. Magna Charta in the Original Latin. Italic Initial J. An Abbot holding chapter with his monks for electing an Archbishop, alluding to the freedom of ecclesiastical elections previously conceded by King John, and referred to in the first chapter of this Charter. See also pages 411-498. Drawn by the late J. Thurston; Engraved by the late R. Branston.

30. Page 63. The Great Charter in English. Roman Initial J. Alluding to the clauses on Forest Laws, which appeared in that instrument only; see chapters xliv, xivli., xlviii., liii., and page 237. Drawn by the late J. Thurston; Engraved by G. W. Bonner.

31 Pages 100-101. The Great Charter of King John, Tailpiece: Obverse and Reverse of the Seal of King John. Drawn from an original attached to his Charter, preserved in the Archives of the City of London, permitting the Citizens to elect a Lord Mayor. Engraved by the late W. Hughes.

32. Page 102. Covenant between the King and the Barons, Initial Letter T, formed of the cross, which was frequently placed at the commencement of ancient deeds, &c. to give them sanctity. In the background is a representation of the Tower of London, which by this Covenant was given up to the Barons, until the provisions of the Great Charter were carried into effect. Drawn by the late J. Thurston. Engraved by the late W. Hughes.

33. Page 104. Covenant of Security, Tail-piece: Ancient silver Seal of Robert, fifth Baron Fitz-Walter, described on page 511. Copied from a plate in the *Archæologia*, vol. v. page 211, plate xv. Engraved by the late W. Hughes.

34. Page 105. The First Great Charter of Henry III. Initial Letter H. The first Coronation of that Sovereign by Sir Peter de Rupibus, Bishop of Winchester, and Josceline de Welles, Bishop of Bath, at Gloucester, on Friday, Oct. 28th 1216; the King being at that time only nine years of age. Drawn by W. H. Brooke, from an ancient illumination of the thirteenth century, contained in a manuscript in the Cottonian Library, described on page 537. Engraved by T. Mosses.

35. Page 117. Letters-Patent of Henry III., attached to the preceding Charter, Tail-piece; Fragment of the Seal of Cardinal Jacobus de Gualo, the Papal Legate, who sealed most of the early grants of this Sovereign, with the Protector, whilst he was without a Great Seal. Copied from a representation given by Sir William Blackstone of a mutilated impression affixed to an Original of the Second Magna Charta of Henry III. preserved in the Bodleian Library at Oxford, described on pages 431, 432. Engraved by the late W. Hughes.

36. Page 118. Second Great Charter of Henry III., Initial Letter H. The young King, then ten years of age, attended by the Protector and Cardinal Gualo, concluding the renewal of Magna Charta; see pages 37, 38. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

37. Page 130. Conclusion of the Charter, Tailpiece: Seal of William Marshall, Earl of Pembroke, Protector to King Henry, who sealed most of his early grants with Cardinal Gualo. Drawn and Engraved by T. Mosses, from a representation given by Sir William Blackstone of an impression affixed to the Second Magna Charta of Henry III. preserved in the Bodleian Library at Oxford, described on pages 431, 432.

38. Page 131. Third Great Charter of Henry III., Initial Letter H. Shrine erected by that King in Westminster Abbey, to the memory of Edward the Confessor, on most of whose Laws the Charters of Liberties were founded. Drawn by W. H. Brooke: Engraved by T. Mosses.

39. Page 145. First Great Charter of Edward I., Initial Letter E. Robert of Winchilsea, Archbishop of Canterbury, with the Monks of Christ-Church, at the High-Altar, reciting the Charters of Liberties, and pronouncing the Sentence of the Clergy on their Confirmation; see pages 389, 390. Drawn by the late J. Thurston; Engraved by J. Thompson.

40. Page 159. Notes on the Great Charters, Initial Letter T. An ancient Student of the Law reading and commenting on the Charters. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

41. Page 281. Monumental Effigy and Shield of Arms of Robert de Vere, Earl of Oxford; described on the above and succeeding page. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

42. Page 287. Monumental Effigy of William Marshall, Earl of Pembroke; described at the same place. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

43. Page 300. Monumental Effigy of Robert de Ros; described at

the same place. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

41. Page 318. Monumental Effigy of William de Longespée, Earl of Salisbury; described at the same place. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

45. Page 328. Notes on the Great Charters. Tail-piece: Portraits and Arms of three eminent Commentators on the Charters of Liberties: Sir Edward Coke, Sir William Blackstone, and the Hon. Daines Barrington. Drawn by W. H. Brooke; Engraved by T. Mosses.

46. Page 329. The First Forest Charter of Henry III., Initial Letter H. A royal Forester on watch in his bailiwick. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

47. Page 336. Conclusion of the Charter, Tail-piece: Seal of Jacobus de Gualo, as attached to the Original of the First Forest Charter, preserved in the Archives of Durham Cathedral; see page 434. Copied and Engraved by T. Mosses.

48. Page 368. Notes to the Forest Charters, Tail-piece: King John hunting in a royal forest, with a rabbit-warren in the foreground. Drawn by W. H. Brooke, Engraved by A. J. Mason, from an illumination of the fourteenth century, in a manuscript in the Cottonian Library, described on page 377, *Note* °.

49. Page 369. Confirmation Charter of Edward I., Initial Letter E. Prince Edward sealing that instrument on behalf of his father; see page 44. Drawn by W. Harvey; Engraved by F. W. Branston and J. Wright.

50. Page 373. Conclusion of the Charter, Tail-piece: Obverse of the Great Seal of King Edward I. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

51. Page 374. The Last Confirmation of Edward I., Initial Letter E. Effigy of the King from an illumination of the thirteenth century, in a manuscript in the Cottonian Library, described on page 537. Drawn by W. Harvey; Engraved by T. Williams.

52. Page 375. Conclusion of the Charter, Tail-piece: Reverse of the Great Seal of Edward I. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

53. Page 393. Notes on the Confirmation Charters, Tailpiece: Obverse of the Great Seal of Henry III. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

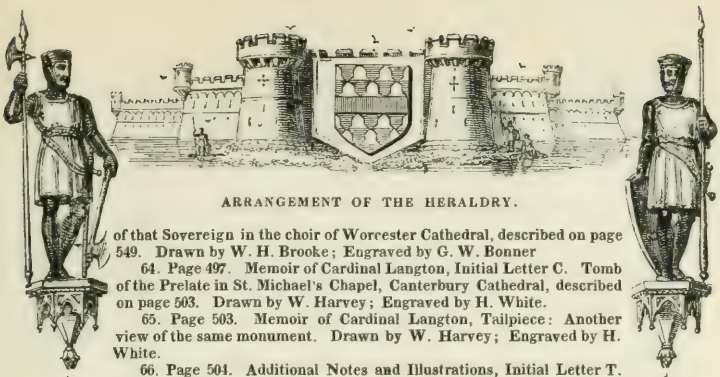
54. Page 394. Descriptive Account of the Charters, Initial Letter T. Representation of the case in the Cottonian Library, containing the Original of King John's Great Charter, with Pine's Fac-simile placed on the opposite side; see page 423. Drawn by W. Harvey; Engraved by H. White.

55-60. Pages 406, 421, 423, 426, 434, 435. Six Fac-similæ of the handwritings of the Charters of Liberties, described in the places where they are inserted; all Engraved by A. J. Mason.

61. Page 460. Descriptive Account of the Charters, Tail-piece: Reverse of the Great Seal of Henry III. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

62. Page 461. Memoir of King John, Initial Letter T. Simon of Swineshead presenting the poisoned wine to the King; see page 491. Drawn by W. Harvey from an illumination of the thirteenth century in a manuscript in the Cottonian Library, particularly described on page 537. Engraved by H. White.

63. Page 496. Memoir of King John, Tail-piece: Cenotaph and Effigy



of that Sovereign in the choir of Worcester Cathedral, described on page 549. Drawn by W. H. Brooke; Engraved by G. W. Bonner

64. Page 497. Memoir of Cardinal Langton, Initial Letter C. Tomb of the Prelate in St. Michael's Chapel, Canterbury Cathedral, described on page 503. Drawn by W. Harvey; Engraved by H. White.

65. Page 503. Memoir of Cardinal Langton, Tailpiece: Another view of the same monument. Drawn by W. Harvey; Engraved by H. White.

66. Page 504. Additional Notes and Illustrations, Initial Letter T. A Verderor of the royal Forests, returning from the Court of Swanimote, with the deer which he was permitted to kill on the journey; see page 359. Drawn by W. Harvey; Engraved by J. Jackson.

67. Page 506. Monumental Effigy of Matilda Fitz-Walter, described at the same place. Drawn by W. H. Brooke; Engraved by G. W. Bonner.

68. Page 549. Monumental Effigy of King John, described at the same place. Drawn by W. H. Brooke; Engraved by A. J. Mason.

69. Page 554. Tail-piece: Interior of King John's Cenotaph and stone coffin, exhibiting his decayed remains, as discovered in July, 1797; described at the same place. Drawn by W. H. Brooke; Engraved by A. J. Mason,

ARRANGEMENT

OF THE

HERALDRY,

CONTAINED IN THE BORDERS OF THE PRESENT VOLUME.

The Armorial Ensigns inserted in the upper parts of the ensuing pages, are those of the Sovereigns, Ecclesiastics, Nobles, Religious Houses, &c. &c. connected with the history of Magna Charta. They were Engraved by the late W. Hughes, and Messrs. Bonner, Mason, and J. Byfield.

THE HERALDICAL DEVICES OF THE PRESENT VOLUME

ARE DISTRIBUTED INTO THE FOLLOWING

CLASSES AND DIVISIONS.

CLASS I. ARMS OF SOVEREIGNS AND THEIR FAMILIES.

Division 1. English Sovereigns who granted Charters of Liberties, or improved the Laws of England.

——— 2. Royal Personages of England connected with King John.

——— 3. Princes of Foreign Countries connected with King John.

ARRANGEMENT OF THE HERALDRY.

CLASS II. ECCLESIASTICS.

Division 1. Popes and Cardinal Legates connected with the history of Magna Charta.
——— 2. British Archbishops and Bishops.

CLASS III. ENGLISH BARONS.

Division 1. Twenty-five Barons elected for the Security of Magna Charta.
——— 2. Barons mentioned in the Great Charter of King John.
——— 3. Other Barons in arms against King John.
——— 4. Barons in arms on the part of King John.
——— 5. Barons in arms against Henry III. and Edward I.
——— 6. Barons in arms on the part of Henry III. and Edward I.
——— 7. Other Barons living in the time of John.

CLASS IV. VARIOUS ARMORIAL ENSIGNS RELATING TO THE HISTORY OF MAGNA CHARTA, AND THE CONTENTS OF THE PAGES WHERE THEY ARE INSERTED:

Including Personages mentioned, Religious Houses, Towns, &c. Commentators on the Charters, and Places where Originals are preserved.

Title-page. ENGLAND. Gules 3 lions passant guardant in pale or.

Page.

ii. SIR WILLIAM BLACKSTONE. Argent, 2 bars, in chief 3 cocks, gules.

iii. Dedication. DESPENCER, (Ancient.) Quarterly, argent and gules, in the 2nd. and 3rd. quarters a fret or, over all a bend sable.

iv. SPENCER. Quarterly, argent and gules, in the 2nd and 3rd quarters a fret or; on a bend sa. 3 escallop-shells of the first.

Principal Quarterings borne by Earl Spencer.

v. Preface. Grant. Erm. on a chev. gu. 5 plates; in chief a crescent for difference.

vi. Willoughby. Or on 2 bars gu. 3 water-bougets, 2 on the upper, and 1 on the lower, arg.

vii. Digby. Az. a fleur-de-lis arg. in the dexter chief a mullet for difference, or.

viii. Churchill. Sa. a lion ramp. arg. a canton of augmentation of the 2nd charged with a cross of St. George.

ix. Descriptive List of Embellishments. Jennings. Arg. on a fesse gu. 3 bezants.

x. Granville. Gu. 3 clarions 2 and 1 or.

xi. Carteret. Gu. 4 lozenges in fesse arg.

xii. SPENCER.

Ancient Baronial Arms Quartered by Earl Spencer.

xiii. Frevile. Or, a cross patonce, gules.

xiv. Cromwell of Tatshall. Argent a chief gules, over all a bend azure.

xv. Marmion. Vaire, a fesse gules.

xvi. Kilpec. Argent, a fesse gules.

xvii. Botetourt. Or, a saltire engrailed sable.

xviii. Beauchamp. Quarterly or and gules, a bend sable.

xix. Erdinton. Or, 2 lions passant in pale azure.

xx. Byset. Argent, 10 bezants, 4, 3, 2, and 1.

xxi. Newmarch. Gules, 5 lozenges conjoined in fesse, or.

xxii. Howard. Gules, a bend between 6 cross-crosslets, argent.

xxiii. Scales. Gules, 6 escallop-shells, 3, 2, and 1, argent.

xxiv. Ufford. Sable, a cross engrailed or.

Page.
xxv. Blundus. Lozengy, or and sa.
xxvi. Norwich. Parted per pale, gu. and az. a lion ramp. erm.
xxvii. Gaunt. Barry of 6, or and az. a bend gu.
xxviii. Mowbray. Gu. a lion ramp. arg.
xxix. Segrave. Sa. 3 garbs, 2 and 1, arg.
xxx. Fitz-Geoffrey. Gu. 3 lions pass. guard. in pale or, surmounted by a file of 3 points arg.
xxxi. Albini. Gu. a lion rampant, or.
xxxii. Spencer.

CLASS I.

English Sovereigns who improved the Laws, or granted Charters of Liberties.

1. ALFRED THE GREAT. Checquée or and purp. (or gu.) on a chief sa. a lion pass. guard. of the first.
2. CANUTE THE GREAT. Or, semée of hearts gu. three lions pass. guard in pale, az.
3. EDWARD THE CONFESSOR. Az. a cross patonce between five martlets, or.
4. WILLIAM I. (Normandy.) Gu. two lions pass. guard. in pale, or.
5. STEPHEN, (Earldom of Blois.) Gu. a sagitarius, or.

Nicholas Upton, who is supposed to be the most ancient English writer on Heraldry, assigns to this Prince, "Gules, three lions in feet and bodies, and as far as the neck like the sign Sagitarius." The Arms most commonly attributed to Stephen, are, however, those first blazoned, which belonged to the Earldom of Blois; as the latter are said to have been adopted from the position of the Sun in the Zodiac, at the time of his accession to the Throne, (2d. December, 1135) These he joined by dimidiation,---or the parting of two different charges in halves, and uniting them without any line of division,---to the leopards of Normandy.

6. HENRY II. Gu. three lions pass. guard. in pale, or. The third leopard, or lion, used in the Arms of England, was first added by this Monarch to the coat of Normandy, on his marriage with Eleanor of Aquitaine, in 1152.

All the Sovereigns who succeeded down to King Edward III. bore these Arms.

Division 2. Royal Relatives of the English Sovereigns.

7. GEOFFREY PLANTAGENET, 5th son of Henry II. Gu. three lions pass. guard. in pale or, over all in chief a file of five points, arg.
8. ARTHUR FITZ-GEOFFREY, his son, Duke of Bretagne. Ermine.
9. ELEANOR OF AQUITAINE, Queen of Henry II. and mother to King John. Coat of Aquitaine, gu. a lion pass. guard. or.
10. ALICE, dau. of Humbert II., Earl of Maurienne, or SAVOY, and first Queen to King John. Arg. an eagle displayed sa.; on the breast an escutcheon impaled; 1st. coat, Gu. a horse saliant, arg. 2nd. coat, Barry of 6, or and sa. a crown in bend vert. (Ancient Coat.)
11. ISABEL, dau. of William Consul, Earl of GLOUCESTER, second Queen to King John. Gu. three clarions, 2 and 1 or.
12. ISABEL, dau. of Aymer, Count of ANGOULEME, third Queen to King John. Lozengy, or and gu.
13. PLANTAGENET. Ancient Arms of Anjou borne by the Plantagenets, who were Earls of that place, of which family King John was descended. Gu. a chief arg. over all an escarbuncle, or.

Division 3. Foreign Princes connected with King John.

14. PHILIP II., KING OF FRANCE. (France ancient.) Az. semée of fleurs-de-lis, or.

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15. LOUIS, son of the above, DAUPHIN OF FRANCE. Afterwards Louis VIII. Quarterly: 1st and 4th France, as before; 2nd and 3rd Or, a dolphin haurient-embowed, az.
16. BLANCHE of CASTILE, 2nd dau. of Eleanor, Queen of Castile, daughter of Henry II., married to the preceding. Gules, a castle triple-towered, or. Ferdinand III. first quartered this coat with that of Leon, namely, arg. a lion rampant, purpure, or gules.
17. ALEXANDER II. KING OF SCOTLAND, Or, a lion ramp. gu. armed and langued, az. within a double tressure flory and counterflory of the second.
18. LLEWELLIN AP JORWERTH, or the Great, Prince of North Wales. Quarterly, gu. and or, four lions pass. guard. counterchanged.

CLASS II. ECCLESIASTICS.

Division I. Popes and Cardinal Legates connected with the history of Magna Charta.

19. Arms of the POPEDOM. Az. two keys in saltire, the upper one or, and the lower one arg. ensigned with the Papal Tiara, labelled and fringed all proper.
20. CELESTINE III. (Cardinal Hyacinthus Bubo.) Arg. a cross az. in the 2nd and 3rd quarters a star of 8 points of the second; all surmounted by a bend, gu.
21. INNOCENT III. (Cardinal Lothario Conti.) Gu. an eagle displ. checquée arg. and sa. in chief a ducal coronet, or.
22. HONORIUS III. (Cardinal Cencius Sabella.) Parted per fesse arg. and bendy of 6 arg. and gu., on a fesse vert a line wavy sa.; in chief two lions combattant, supporting a rose surmounted by a bird, all of the third.
23. CARDINAL PANDULPHUS DI MASCA, Bishop Elect of Norwich. Sa. a cross lozengy, in the 1st and 2nd quarters an escallop-shell, or.
24. Another Coat attributed to the same Ecclesiastic. Parted per fesse nebulée sa. and arg.
25. CARDINAL JACOBUS DE GUALLO, Arg. 3 escutcheons, 2 and 1, gu. each charged with a fesse of the field; a chief of the second.
26. NICHOLAS, BISHOP OF TUSCULUM. Impaled, 1st coat, vert, a lion ramp. arg.; 2nd coat arg. three bars nebulée gules.

Division 2. British Archbishops and Bishops.

27. Arms of the See of CANTERBURY. Az. an episcopal-staff in pale or, and ensigned with a cross patée, arg. surmounted by a pall of the last, edged and fringed of the second, charged with 4 crosses formée-fitchée, sable.
28. HUBERT WALTER, ARCHBISHOP OF CANTERBURY. Quarterly, az. and arg. a cross or; in the 1st and 4th quarters 5 mullets of the first, in saltire, in the 2nd and 3rd an eagle displ. sa.
29. STEPHEN LANGTON, ARCHBISHOP OF CANTERBURY AND CARDINAL. Arg. a cross gu. pierced quarterly of the field.
30. Another Coat attributed to the same Ecclesiastic. Parted per pale az. and gu. a bend or.
31. Arms of the See of YORK, Ancient Coat. Az. an episcopal-staff in pale or, and ensigned with a cross patée arg. surmounted by a pall of the last, edged and fringed of the second, charged with 6 crosses, formée-fitchée, sa.
32. Archbishopric of YORK. (Modern Coat.) Gu. 2 keys in saltire arg. in chief an imperial crown, proper.
33. Archbishopric of DUBLIN. Az. an episcopal-staff in pale, or, ensigned with a cross patée arg. surmounted by a pale of the last, edged and fringed of the second, and charged with 5 crosses formée-fitchée, sable.
34. Bishopric of LONDON. Gu. 2 swords in saltire, arg. pomels or.
35. Bishopric of WINCHESTER. Gu. 2 keys in bend endorsed, the uppermost or, the other arg.; a sword interposed between them in bend sinister of the third, hilt and pomel of the second.

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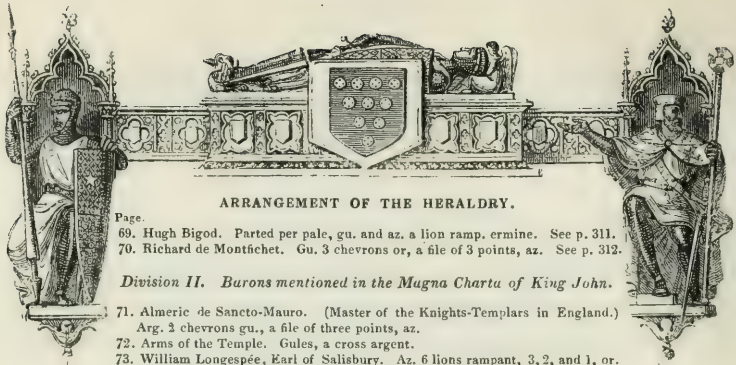
36. Bishopric of BATH and GLASTONBURY. Az. a saltire quarterly quartered, or and argent.
37. Bishopric of LINCOLN. Gu. 2 lions passant guardant or; on a chief az. the Virgin and child seated, crowned, sceptered, and glorified, of the second.
38. Bishopric of WORCESTER. Arg. 10 torteaux, 4, 3, 2, and 1.
39. Bishopric of COVENTRY. Parted per pale, gu. and arg. a cross potent and quadrat in the centre, between four crosses patée of the second and or.
40. Bishopric of ROCHESTER. Arg. on a saltire gu., an escallop-shell or.
41. Bishopric of NORWICH. Az. 3 mitres labelled, 2 and 1, or.
42. John Grey, Bishop of Norwich, appointed by King John in 1205, to be Archbishop of Canterbury, but rejected by the Pope. Barry of 6 arg. and az., in chief 3 torteaux and a file of 3 points erm.

CLASS III. ENGLISH BARONS.

Division I. Twenty-five Barons elected for the security of Magna Charta.

A particular account of the Armorial Ensigns belonging to these Noblemen, is given in their Memoirs contained in the Notes, at the pages referred to beneath.

43. Richard de Clare, Earl of Clare. Or, 3 chevrons, gu. See Notes, p. 271.
44. William de Fortibus, Earl of Aumerle. Bendy of 6, arg. and gu., a chief, or. See p. 273.
45. Geoffrey de Mandeville, Earl of Gloucester. Quarterly gu. and or, an escarbuncle sa. See p. 275.
46. Saher de Quincy, Earl of Winchester. Or, a fesse gu. a file of 11 points az. See p. 277.
47. Henry de Bohun, Earl of Hereford. Az. a bend arg. between 2 cottises and 6 lions rampant or. See p. 278.
48. Roger Bigod, Earl of Norfolk. Or, a cross gu. See p. 280.
49. Robert de Vere, Earl of Oxford. Quarterly gu. and or, in the first quarter a mullet, arg. See pages 281, 282.
50. William Marshall, Jun. Parted per pale, or and vert, a lion rampant gu. armed and langued az. See pages 284, 287.
51. Robert Fitz-Walter, Banner-bearer of London. Or, a fesse between 2 chevrons gu. See p. 511.
52. Ensigns from the Banner of London. Gu. the figure of St. Paul, or, his head, hands, feet, and sword, arg.
53. Gilbert de Clare. Or, 3 chevrons, gu. See p. 289.
54. Eustace de Vescy. Gu. a cross patonce, arg. See p. 292.
55. William de Hardles, Lord Mayor of London. Vert, a fesse flory and counter-flory or. See p. 293.
56. Ancient Arms of London. Arg. a cross gu. in the first quarter an ancient text L of the second.
57. William de Mowbray. Gu. a lion rampant arg. See p. 275.
58. Geoffrey de Say. Quarterly or and gu. See p. 295.
59. Roger de Montbegon. Paly of 6, an orle of roundles counterchanged. See p. 297.
60. William de Huntingfield. Or, on a fesse gu. 3 plates. See p. 297.
61. Robert de Ros. Gu. 3 water-bougets, 2 and 1, arg. See pages 299, 300.
62. John de Lacy. Constable of Chester. (Coat of Office.) Az. 3 garbs, 2 and 1, or. See p. 302.
63. Lacy Coat. Or, a lion rampant, purpure. See p. 303.
64. William de Albini. Gu. a lion ramp. or, armed and langued az. See pages 305, 306.
65. Richard de Percy. Or, a lion ramp. az. See p. 306.
66. William Malet. Az. 3 escallop-shells, 2 and 1, or. See p. 308.
67. John Fitz-Robert. Gu. 2 chevrons or. See p. 309.
68. William de Lanvallei. (Delaval.) Ermine, 2 bars vert. See pages 310, 311.



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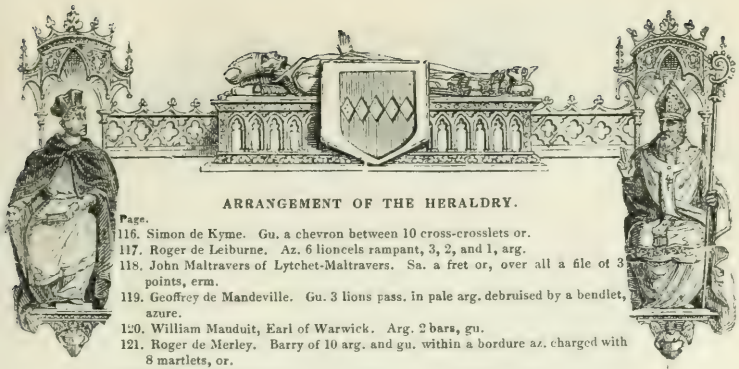
69. Hugh Bigod. Parted per pale, gu. and az. a lion ramp. ermine. See p. 311.
70. Richard de Montfichet. Gu. 3 chevrons or, a file of 3 points, az. See p. 312.

Division II. Barons mentioned in the Magna Charta of King John.

71. Almeric de Sancto-Mauro. (Master of the Knights-Templars in England.) Arg. 3 chevrons gu., a file of three points, az.
72. Arms of the Temple. Gules, a cross argent.
73. William Longespée, Earl of Salisbury. Az. 6 lions rampant, 3, 2, and 1, or.
74. William Plantagenet, Earl of Warren. Checquée or and azure.
75. Alan de Gallaway, Constable of Scotland. Az. a lion ramp. arg.
76. Hugh de Neville. Gu. a saltire arg.
77. Peter Fitz-Herbert. Arg. a chief vaire, or and gu., over all a bend az.
78. Hubert de Burgh, Seneschal of Poictou. Gu. 7 mascles conjoined, 3, 2, and 1, vaire.
79. Arms of Poictou. Gu. 5 castles in saltire, or.
80. Warren Fitz-Gerold. Argent, a saltire gules.
81. Thomas Basset of Colinton. Paly of 6 or and gules.
82. Alan Basset of Wycombe. Barry-wavy of 6 arg. and az.
83. John Marshall of Hengham. Gu. a bend lozengy or.
84. John Fitz-Hugh. Az. a chief or; in base 3 chevrons braced, of the second.

Division 3. Other Barons in Arms against King John.

85. William de Aquillon. Gu. a fleur-de-lis arg.
86. Robert de Arsic. Or, a chief indented sa.
87. Thomas de Astley. Az. a cinquefoil, ermine.
88. William de Baddlesmere. Arg. a fesse between 2 bars gemelles gu.
89. William de Beauchamp. (Ancient.) Quarterly or and gu. a bend of the last.
90. Beauchamp. (Modern.) Quarterly or and gu. a bend sa.
91. Roger Bertram. Az. an inescutcheon or.
92. Robert de Boteler. Gu. a fesse componée or and sa. between 6 crosses patée argent.
93. William de Braose. Az. crusily gu. a lion rampant or, armed and langued of the second.
94. Peter de Bruce of Skelton. Or, a saltire engrailed gu., a chief per fesse dancettée of the field and the last.
95. Ralph de Camois. Arg. on a chief gu. 3 bezants.
96. Simon de Canci. Barry of 6 arg. and az. a lion rampant gu.
97. John de Clavering. Quarterly, or and gu. a bend sa.
98. William de Colville. Or. a fesse gu.
99. Roger de Cressie. Arg. a lion rampant queuée-fourchée sa.
100. Hamon Crevequer. Or, a cross voided gu.
101. Ralph Cromwell of Tatshall. Arg. a chief gu. over all a bend az.
102. Philip D'Aubini or D'Albini. Gu. 4 lozenges in fesse arg.
103. Oliver Deincourt. Az. a fesse indented between 10 billets or.
104. Walter de Dunstanville. Arg. a fret gu. on a canton of the second a lion passant guardant, or; the whole within a bordure engrailed, sa.
105. Richard Engaine. Gu. a fesse indented between 7 cross-crosslets or.
106. Peter Fitz-John. Quarterly or and gu. within a bordure vaire.
107. Walter Foliot. Gu. a bend arg.
108. Gilbert de Gaunt, Earl of Lincoln. Barry of 6 or and az. a bend gu.
109. Hugh de Gournay. Paly of 6 or and az.
110. Robert de Gresley. Vaire, erm. and gu.
111. Humphrey de Hastang. Az. a chief gu., over all a lion rampant or.
112. William de Hastings. Or, a maunch gu.
113. John de Humet. Arg. a bordure gu. bezantée.
114. William de Keynes or Kayneto. Vaire 3 bars gu.
115. Bevil de Knovil. Arg. 3 etoiles gu.



ARRANGEMENT OF THE HERALDRY.

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116. Simon de Kyme. Gu. a chevron between 10 cross-crosslets or.
117. Roger de Leiburne. Az. 6 lioncels rampant, 3, 2, and 1, arg.
118. John Maltravers of Lytchet-Maltravers. Sa. a fret or, over all a file of 3 points, erm.
119. Geoffrey de Mandeville. Gu. 3 lions pass. in pale arg. debruised by a bendlet, azure.
120. William Manduit, Earl of Warwick. Arg. 2 bars, gu.
121. Roger de Merley. Barry of 10 arg. and gu. within a bordure az. charged with 8 martlets, or.
122. William de Montacute, Earl of Salisbury. Arg. 3 fusils in fesse, gu.
123. Simon de Montfort, Earl of Leicester. Gu. a lion rampant queuée-fourchée, arg.
124. Robert de Mortimer of Attilbergh. Or, semée of fleurs-de-lis, sa.
125. Geoffrey de Norwich. Parted per pale, gu. and az. a lion rampant, ermine.
126. Henry D'Oyly. Or, 2 bendlets, az.
127. Hugh Paganel. Gu. a cinquefoil erm. a crescent for difference.
128. William Pantulf. Gu. 2 bars erm.
129. Robert de Pincheni. Or, 4 fusils in fesse, gu.
130. Hugh de Playz. Parted per pale, or and gu. a lion passant, arg.
131. Hugh de Poyntz. Barry of 8, or and gu.
132. Michael de Poyning. Barry of 6, or and vert, a bend, gu.
133. Roger de Saint Philibert. Bendy of 6, arg. and az.
134. Roger de Somerville. Az. crusilly, and 3 eagles displayed, or.
135. Nicholas de Stuteville, or Estoteville. Barry of 10, arg. and gu. a lion rampant, sa.
136. Alexander de Sutton. Or, a lion rampant, vert.
137. Walter de Tibetot. Arg. a saltire engrailed, gu.
138. William de Todeni. Gu. an eagle displayed within a bordure, arg.
139. Ralph de Toni. Arg. a maunch, gu.
140. Theobald de Valoines. Or, a cross gu. within a bordure, az. billettée of the first.
141. Ranulph de Vaux. Chequée or and gu.
142. Nicholas de Verdon. Or, a fret, gu.
143. Richard de Umfravile. Gu. a cinquefoil within an orle of cross-crosslets, or.
144. Ralph de Willeghby. Or, frettée, az.

Division 4. *Barons in Arms on the part of King John.*

145. Warine de Bassingbourne. Gyronny of 8, or and arg.
146. Robert de Braibrock. Arg. 7 mascles conjoined in fesse, az.
147. Fowke de Breant. Gu. a cinquefoil, arg.
148. William de Briwere. Gu. 2 bends wavy, or.
149. Gerard de Camville. Vert, 3 lions passant arg. armed and langued, gu.
150. William de Cantilupe. Gu. 3 leopards' faces inverted, jessant-du-lis, or.
151. John de Courci, Earl of Ulster. Arg. 3 eagles displayed, gu. crowned, or.
152. Thomas de Erdinton. Or, 2 lions passant in pale, az.
153. William de Ferrers, Earl of Derby. Argent, 6 horseshoes, 3, 2, and 1, sable, pierced, or.
154. Roger de Gaugi. Per saltire, arg. and az, a cross saltire, gu.
155. Richard de Grey, of Codnor. Barry of 6, arg. and az. in chief 3 torteaux.
156. Alured de Lincolne. Quarterly, per pale indented, or and gu. in the 1st and 4th quarters a cross of 5 lozenges of the second.
157. Bryan de Lisle. Gu. a lion passant guardant, arg. crowned, or.
158. Geoffrey de Lucie. Gu. 3 lucies haurient, 2 and 1, arg.
159. John Marshall. Gu. a bend lozengy, or.
160. Peter de Mauley. Or a bend, sa.
161. Roger de Mortimer. Barry of 6, or and az. an escutcheon, arg. on a chief of the first, between two esquires based, 3 pallets of the second.
162. Robert de Vipount. Or, 6 annulets, 3, 2, and 1, gu.

Division 5. Barons in Arms against Henry III. and Edward I.

Page.

163. William de Abrincis. Gu. 3 archers, 2 and 1, az.
164. Giles Argentine. Gu. 3 covered cups, 2 and 1, arg.
165. John de Baalun. Arg. 3 bars dancettée, gu.
166. William de Bardolf. Az. 3 cinquefoils, 2 and 1, or.
167. Ralph Basset of Drayton. Or, 3 piles meeting in point, gu. a canton, erm.
168. Ralph Basset of Sapcoate. Arg. 2 bars wavy, sa.
169. John Beauchamp of Bedford. Quarterly, or and gu. a bend of the second.
170. Ralph de Berners. Quarterly, or and vert.
171. William le Blount. Barry-nebulée of 6, or and sa.
172. Reginald de Bottreaux. Arg. 3 toads erected, 2 and 1, sa.
173. Guy de Bryan. Or, 3 piles meeting in point, az.
174. Walter de Clifford. Checquée, or and az , a fesse, gu.
175. John D'Eivill. Arg. on a chevron, sa. a fleur-de-lis, or.
176. Jordan de le Warre. Gu. semée of cross-crosslets fitchée, and a lion ramp. arg.
177. William Devereux. Arg. a fesse gu., in chief 3 torteaux.
178. John-Fitz-Alan. Gu. a lion ramp. or, armed and langued, az.
179. Robert Fitz-Pain. Gu. 3 lions pass. guard. in pale, . . . over all a bend, az.
180. Fulke Fitz-Warine. Quarterly, per fesse indented, arg. and gu.
181. Aucher de Freschvill. Az. a bend between 6 escallop-shells, arg.
182. William de Heyrun. Gu. a chevron between 3 herons, arg.
183. Henry Hoese. Barry of 6 ermine and gu.
184. Roger de Leiburne. Az. 6 lioncels rampant, 3, 2, and 1, arg.
185. Robert de Lisle. Gu. a lion passant guardant or, crowned, arg.
186. Roger de Lovetot. Arg. a lion rampant, parted per fesse, gu. and sa.
187. William de Montchensi. Or, 3 escutcheons, 2 and 1, barry of 6 vaire and gu.
188. Peter de Montfort. Bendy of 10, or and az.
189. Simon de Montfort. Gu. a lion rampant queuée-fourchée, arg.
190. William de Mowbray. Gu. a lion rampant, arg.
191. Adam Newmarch. Gu. 5 lozenges conjoined in fesse, or.
192. William de Pierrepointe. Arg. semée of cinquefoils gu. a lion rampant, sa.
193. Richard Plantagenet. Arg. a lion ramp. gu. crowned or, within a bordure, sa. charged with 10 bezants.
194. Henry de Pomerai. Or, a lion rampant gu. armed and langued, az. within a bordure indented, sa.
195. Roger de Saint John. Arg. on a chief gu. 2 mullets or, and a file of 3 points of the field.
196. Nicholas de Segrave. Sa. 3 garbs, 2 and 1, arg. banded gu.
197. Robert de Tregoz. Gu. 2 bars gemelles, and in chief a lion pass. guard. or
198. John de Verdon. Or, a fret, gu.
199. Baldwin de Wake. Or, 2 bars gu. in chief 3 torteaux.

Division 6. Barons in Arms on the part of Henry III. and Edward I.

200. James de Aldithley, or Audely. Gu. a fret, or.
201. Hugh Baliol. Gu. an orle arg.
202. John Comyn. Gu. 3 garbs, 2 and 1, or.
203. Philip D'Arcy. Az. semée of cross-crosslets and 3 cinquefoils, arg.
204. John de Grey, of Wilton. Barry of 6 arg. and az. in chief 3 torteaux, and a file of 3 points of the first.
205. Bryan de L'Isle. Gu. a lion passant, arg. crowned, or.
206. Philip de Marmion. Vaire, a fesse, gu.
207. Peter de Mauley. Or, a bend, sa.
208. Roger de Merley. Barry of 10 arg. and gu. within a bordure az. charged with 8 martlets, or.

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209. Roger de Mortimer. Barry of 6, or and az. an escutcheon arg. on a chief of the first, between 2 esquires based, 3 pallets of the second.
210. Roger de Someri, Baron of Dudley. Or, 2 lioncels passant, az.
211. Robert de Tatshall. Checquée or and gu. a chief, erm.
212. William de Valence. Barry of 6 arg. and az. an orle of martlets, gu.
213. Robert Waleran. Barry of 6 arg. and az. an eagle displayed, gu.

Division 7. Other Barons of the reigns of John, Henry III., and Edward I.

214. Gilbert de Aquila. Paly of 6 gu. and vaire, (arg. and az.) on a chief or, 3 eagles displayed sa.
215. John L'Archer. Az. 3 arrows, 2 and 1, or.
216. Sir Humphrey Arundel. Sa. 6 swallows close, 3, 2, and 1, arg.
217. Gilbert de Aton. Or, 3 bars az. on a canton gu. a cross patonce, arg.
218. William Tuchet, Lord Audley. Erm. a chevron, gu.
219. John de Bayeaux. Paly of 6, or and gu. on a chief of the second, 3 escallop-shells of the first.
220. Robert de Beauchamp, of Hacche. Vaire, arg. and az.
221. Roger de Beauchamp, of Eaton. Gu. a fesse or.
222. Walter de Beauchamp, of Alcester. Gu. a fesse, between 6 martlets, or.
223. Henry de Beaumont. Az. semée de lis, and a lion ramp. or.
224. John Bec. Gu. a cross moline arg.
225. Michael Belet. Az. on a chief gu. 3 cinquefoils of the field.
226. John Birkin. Arg. a fesse az. in chief a file of 3 points, gu.
227. Henry Biset. Az. 10 bezants, 4, 3, 2, and 1, arg.
228. Hugh de Bolebec. Vert, a lion ramp. arg. vulned in the shoulder, proper.
229. Baldwin de Bollers. Sa. a maunch, or.
230. Adam Boltby. Arg. on a fesse sa. 3 garbs or.
231. William de Bonvile. Sa. 6 mullets, . . . 3, 2, and 1, pierced, gu.
232. John de Botetourt. Or, a saltire engrailed, sa.
233. John de Bulmer. Gu. a lion saliant, erm.
234. Robert de Burghersh. Gu. a lion ramp. queuée-fourchée, or.
235. Philip Burnell. Arg. a lion ramp. sa. crowned or, within a bordure, az.
236. Hugh Bussel. Arg. a chevron between 6 water-bougets, . . .
237. Roger de Byron. Arg. 3 bends sinister, gu.
238. Peter de Cioches. . . . 2 bars, gu.
239. Henry de Cobbeham. Gu. on a chevron or, 3 lions ramp. sa.
240. John de Coningsbie. Gu. 3 conies seiant, 2 and 1, arg.
241. Walter de Cormeilles. Arg. 3 ducal coronets, 2 and 1, sa.
242. William de Criketot. Lozengy, or and sa.
243. Brian de Criol. Or, 2 bars and a canton, gu.
244 Maurice de Croun. Arg. a fesse betw. 2 fers-de-moline in chief, and an annulet in base, gu.
245. William de Dacre. Gu. 3 escallop-shells, 2 and 1, arg.
246. Hugh Despencer. Quarterly, arg. and gu. in the second and third quarters a fret, or, over all a bend, sa.
247. Hugh de Courtenay, Earl of Devon. Or, 3 torteaux, 2 and 1, and a file of 3 points, az.
248. Hugh de Evre. Quarterly, or and gu. on a bend sa. 3 escallop-shells, arg.
249. Walter de Fauconberg. Arg. a lion ramp. az.
250. John de Ferrers, of Chartley. Vaire, or and gu.
251. William de Ferrers, of Groby. Gu. 7 mascles conjoined, 3, 3, and 1, or.
252. Hugh Fitz-Ralph. Or, 2 bars, az.
253. Gerard de Furnivall. Arg. a bend between 6 mascles, gu.
254. Ranulph de Greystoke. Barry of 6 arg. and az. 3 chaplets, 2 and 1, gu.
255. Robert de Harrington. Sa. a fret, arg.
256. Ivo de Heriz. Az. 3 hedge-hogs, 2 and 1, or.

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257. Walter de Lacy. Or, a fesse, gu.
258. Wyschard Ledet. Or, a bend within a bordure, gu. the latter charged with 8 bezants.
259. Richard de Levington. Or, a saltire gu. on a chief of the second 3 boars heads couped of the first.
260. Richard de Lexington. Arg. a cross patonce, az.
261. David de Lindesei. Gu. 3 eagles displ. 2 and 1, or.
262. Hugh de Lizures. Or, a chief, az.
263. Simon de Longchamp. Or, 3 crescents, 2 and 1, gu. each charged with a mullet, arg.
264. Henry Lovel. Or, semée of cross-crosslets, a lion ramp. az.
265. Nicholas de Moels. Arg. 2 bars gu. in chief 3 torteaux.
266. John de Monmouth. Arg. 3 bars gemelles sa. over all a lion rampant gu. armed and langued az.
267. Ralph de Monthermer. Or, an eagle displ. vert, beaked and membered, gu.
268. William de Morley. Arg. a lion ramp. sa. crowned, or.
269. Hugh Mortimer, of Chelmarsh. Barry of 6 or and gu. an escutcheon arg. on a chief of the first, between 2 esquires based, as many pallets of the second.
270. Hugh Morville. Az. an eagle displayed, Barry gu. and arg.
271. Thomas Multon. Az. 3 bars, gu.
272. Ralph Musard. Gu. 3 plates, 2 and 1.
273. Another Coat of Musard. Or, 2 chevrons, within a bordure az.
274. Thomas Muschamp. Az. 3 bees, 2 and 1, or.
275. John de Oggil. Arg. a fesse between 3 crescents, gu.
276. Another Coat of Oggil. Sa. 6 mullets, 3, 2, and 1, arg. pierced gu.
277. John Peverel. Gyronny of 8, arg. and gu.
278. Guy de Thouars, Earl of Richmond. Or, 5 fleurs-de-lis, az. a canton, gu.
279. Peter de Dreux, Earl of Richmond. Chequée, or and az. a canton, erm.
280. Ralph Ribald. Or, on a chief indented, az. a lion pass. of the first.
281. Nicholas de Rye. Gu. on a bend, arg. 3 rye-stalks, sa.
282. Robert de Ros, of Werke. Gu. 3 water-bougets, 2 and 1, sa.
283. Almeric de St. Amand. Or, frettée, on a chief sa. 3 bezants.
284. Robert le Scalers. Gu. 6 escallop-shells, 3, 2, and 1, arg.
285. John le Scott. Or, 3 piles meeting in point, gu.
286. William de Scroope. Az. a bend, or.
287. Henry de Stafford. Or, a chevron, gu.
288. John le Strange. Gu. 2 lions pass. arg. within a bordure engrailed, or.
289. Peter de Thani. Arg. 6 eaglets displayed, 3, 2, and 1, sa.
290. Oliver de Traci. Or, 2 bendlets, gu.
291. Robert de Turnham. Gu. a lion pass. in fesse, or, between 2 mascles in pale, arg.
292. Reginald de Valletourt. Bendy of 6, arg. and gu. within a bordure of the second, bezantée.
293. Robert de Ufford. Sa. a cross engrailed, or.
294. Thomas de Newburgh, Earl of Warwick. Lozengy, or and az. within a bordure gu. charged with 8 plates.
295. William de Welles. Or, a lion ramp. queuée-fourchée, sa.
296. Robert de Wentworth. Sa. a chevron between 3 leopards faces, or.
297. Hamon de Wolverton. Az. an eagle displayed debruised by a bend, gu.
298. Alan Zouche of Ashby. Gu. 10 bezants, 4, 3 2, and 1.
299. Eudo Zouche of Haryngworth. The same, with a canton, erm.
300. John Ap Adam. Arg. on a cross gu. 5 mullets, or.
301. Thomas le Archdekne. Arg. 3 chevronels, sa.
302. Ralph Basset, of Weldon. Or, 3 piles meeting in point, within a bordure bezantée.
303. Robert Bavent. Arg. a chief indented, sa.
304. John de Benestede. Arg. 3 bars gemelles gu.
305. William de Bermingham. Per pale indented, or and gu.
306. Franco de Bohun. Or, a cross, az.

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307. William le Butiller. Az. a bend between 6 garbs, or.
308. Thomas de Cailli. Arg. 4 bendlets, gu.
309. Robert de Chandos. Or, a pile, gu.
310. Peter de Chaumpvent, or Chavent. Paly of 6 arg. and az. a fesse gu.
311. Thomas de Chauworth, of Alfreton. Az. 2 chevrons, or.
312. Payne de Chaworth. Barry of 10, arg. and gu. an orle of martlets, sa.
313. Henry de Cobham. Gu. on a chevron or, 3 etoiles, sa.
314. Thomas Corbet. Or. a raven proper.
315. Adam de Creting. Arg. a chevron between 3 mullets gu. pierced of the field.
316. Gilbert Damorie. Barry of 6 nebulée, az. and gu. a bend of the first.
317. John de la Mare. Gu. 2 lions passant in pale, arg.
318. Robert de la Ward. Vaire, arg. and sa.
319. Geoffrey Dinan or Dinham. Gu. a fesse dancettée, erm.
320. Simon de Echingham. Az. a fret arg.
321. Robert de Everingham. Gu. a lion rampant vaire.
322. Roger de Felton. Gu. 2 lions passant, erm. crowned or.
323. Bryan Fitz-Alan. Barry of 8, or and gu.
324. Herbert Fitz-Herbert. Arg. a chief vaire, or and gu. over all a bend az.
325. Sir Thomas Fitz-William. Lozengy, arg. and gu.
326. Baldwin de Frevile. Or, a cross patonce gu.
327. Geoffrey de Geneva, or Genevil. Az. 3 horses bits or, on a chief erm. a demi-lion issuant, gu.
328. Ernald, Count of Ghisnes. Barry of 6, vaire and gu.
329. Ralph de Gorges. Lozengy, or and az.
330. Another Coat of Gorges. Arg. a whirlpool az.
331. Otto de Grandison. Paly of 6 arg. and vert, on a bend gu. 3 eagles displ. or.
332. Sir Ralph de Grendon. Arg. 2 chevrons gu.
333. Eustace de Hacche. Or, a cross engrailed gu.
334. Robert de Hilton. Arg. 2 bars az. and a fleur-de-lis, or.
335. William de Huntercombe. Erm. 2 bars gemelles, gu.
336. William de Kerdiston. Gu. a saltire engrailed, arg.
337. Roger de Lascells. Arg. 3 chaplets, 2 and 1, gu.
338. William Latimer. Gu. a cross patonce, or.
339. John de Longvillers. Sa. a bend betw. 6 cross-crosslets arg.
340. Henry de L'Orti. Vert, a pale or.
341. Matthew de Lovain. Gu. a fesse arg. betw. 10 billets or.
342. Robert Luterel. Or, a bend betw. 6 martlets sa.
343. Richard de Meinell. Az. 3 bars gemelles and a chief, or.
344. Reginald Mohun. Gu. a maunch, erm. in the hand proper, a fleur-de-lis, arg.
345. Roger de Montalt. Az. a lion ramp. arg.
346. Serlo de Nansladron. Sa. 3 chevronels arg.
347. Robert de Nereford. Gu. a lion rampant, erm.
348. John de Northwood. Erm. a cross engrailed gu.
349. Fulke de Orreby. Erm. 5 chevronels gu. on a cant. of the 2nd. a lion of England.
350. Simon de Patshul. Arg. a fesse sa. betw. 3 crescents gu.
351. Hamon Peche of Brunne. Arg. a fesse betw. 2 chevronels gu.
352. Ralph Pipard. Arg. 2 bars gu. on a canton az. a cinquefoil or.
353. Alan de Plugenet. Erm. a bend engrailed, gu.
354. William de Rythre. Az. 3 crescents 2 and 1, or.
355. John de Sudley. Or, 2 bendlets, gu.
356. Adam de Swillington. Arg. a chevron az.
357. Marmaduke Thweng. Arg. a fesse gu.
358. William Trussel. Arg. frettée, each joint charged with a bezant.
359. Walter Tyes. Arg. a chevron gu.
360. Thomas de Wahull. Or, 3 crescents 2 and 1, gu.
361. William de Windsore. Gu. a saltire arg. between 12 cross-crosslets, or.

ARRANGEMENT OF THE HERALDRY.

Division 8. Descendants from, and Representatives of the Baronial Securities and Witnesses to Magna Charta, an account of whom will be found on the pages cited at the end of each name.

Page

362. Robert Fitz-Walter. See page 511.
363. Benjamin Mildmay, last Earl of Fitz-Walter. See pages 510, 511. Arg. 3 lions ramp. 2 and 1, az.
364. Geoffrey de Mandeville, Earl of Gloucester.
365. George Ferrers Townshend, Marquess Townshend. See p. 275. Az. a chevron erm. between 3 escallop-shells, arg.
366. Saher de Quincy, Earl of Winchester. See page 277.
367. Charles-Ingoldsby Paulett, present Marquess of Winchester. See page 278. Sa. 3 swords in pile, the points in base, arg. hilts and pomels or.
368. Henry de Bohun, Earl of Hereford. See page 278.
369. Henry Devereux, Viscount Hereford. See p. 279. Arg. a fesse gu. in chief 3 torteaux.
370. Roger Bigod, Earl of Norfolk,
371. Bernard Edward Howard, Duke of Norfolk. See p. 280. Gu. on a bend betw. 6 cross-crosslets fitchée, arg., in the dexter chief an Escutcheon of Augmentation or, charged with a demi-lion ramp. gu. armed and langued az. pierced through the mouth with an arrow, within the double tressure of Scotland.
372. Robert de Vere, Earl of Oxford. See page 282.
373. William Aubrey de Vere Beauclerk, Duke of St. Alban's. See p. 283. Quarterly: 1st and 4th quarterly France and England; 2nd Scotland; 3rd Ireland, over all, on a bâton in bend sinister gu., 3 roses, arg. barbed and seeded proper.
374. William Marshall, Jun. Earl of Pembroke.
375. George-Augustus Herbert, Earl of Pembroke and Montgomery. See p. 284. Parted per pale, az. and gu. 3 lions ramp. 2 and 1 arg.
376. Bernard-Edward Howard, Duke of Norfolk, with the insignia of Earl-Marshal of England. See page 285.
377. Eustace De Vesci.
378. Quartering used by the Family of Clifford, as heirs-general of the House of De Vesci. Or, a cross sa.
379. Edward Southwell-Clifford, Baron De Clifford. See p. 292. Arg. 3 cinquefoils 2 and 1, gu. each charged with 6 annulets or, and pierced of the field.
380. Richard de Clare. Or, 3 chevronels gu. on an escutcheon arg. a canton of the second.
381. Gilbert de Clare. See page 271.
382. Thomas Pelham, last Marquess of Clare. See p. 272. Quarterly, 1st and 4th az. 3 pelicans, 2 and 1 arg., vulning themselves, gu. 2nd and 3rd. erm. 2 piles meeting in point, sa.
383. William de Fortibus, Earl of Aumerle. Gu. a cross patonce vaire.
384. William Charles Keppel, Earl of Albemarle. See p. 273. Gu. 3 escallop-shells, 2 and 1, arg.
385. William de Mowbray.
386. Howard. Quartering Brotherton, Mowbray, and Warren. See pages 280, 295.
387. Geoffrey de Say. See page 295.
388. Henry-Pelham Fiennes-Pelham Clinton, Duke of Newcastle. See p. 296. Arg. 6 cross-crosslets fitchée, 3, 2, and 1, az. on a chief of the second 2 mullets of the first pierced.
389. Gregory-William Eardley-Twisleton Fiennes, Baron Say and Sele. See p. 296. Az. 3 lions ramp. 2 and 1 arg.
390. Ros.
391. Charlotte Fitz-Gerald De Ros, Baroness de Ros. See page 300.
392. Richard de Percy. See page 306.
393. Hugh Percy, Duke of Northumberland. See p. 307. Quarterly: 1st and 4th quarterly, 1st. and 4th. or, a lion ramp. az. for Percy, 2nd and 3rd gu. 3 lucies

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haurient, 2 and 1, arg. for Lucy; 2nd and 3rd Percy ancient, az. 5 fusils conjoined in fesse or.

394. William de Albini. See pages 305, 306.
395. Howard. See pages 280, 306.
396. William Malet. Gu. a lion ramp. or, debruised with a bendlet, erm. See p. 308.
397. Sir Alexander Malet, Bart. Az. 3 escallop-shells 2 and 1, or. See p. 309.
398. William de Lanvallei. See page 310. Gu. a lion pass. or.
399. Sir Roger Gresley, Bart. See page 310. Vaire, gu. and erm.
400. William, Earl of Warren.
401. Howard. Quartering Brotherton, Warren and Mowbray.
402. Sancto-Mauro.
403. Edward Adolphus Seymour, Duke of Somerset. Quarterly, 1st and 4th or, on a pile gu. betw. 6 fleurs-de-lis, az. 3 lions of England of the first, for Seymour, Royal; 2nd and 3rd gu. 2 wings conjoined in lure, the points downward, or.

CLASS IV.

Various Armorial Ensigns relating to the history of Magna Charta, and the contents of the pages whereon they are placed.

404. Stephen, Earl of Blois.
405. Robert the Consul, Earl of Gloucester. Gu. 3 clarions 2 and 1 or; the two in chief turned dexter and sinister, that in base to the dexter.
406. Stephen, King of England.
407. William I., King of England.
408. Payne Fitz-John.
409. Henry II., King of England.
410. Edward the Confessor.
411. See of Canterbury.
412. France, Ancient.
413. Priory of Christ Church, Canterbury. Az. on a cross arg. the text-letter r. surmounted by an i, sa.
414. The Emperor Charlemagne. Impaled: 1st Coat, or, a double-headed eagle displ. sa. crowned gold, dimidiated and joined to the centre line; 2nd Coat, az. 6 fleurs-de-lys, 1, 2, 2, and 1, or.
415. Pope Urban III., (Cardinal Uberto Crivellus.) Checquée, arg. and gu. on a chief of the first, an eagle displ. sa.
416. Arms of the Popedom.
417. John, King of England.
418. William Marshall, Earl of Pembroke.
419. Henry VIII. King of England. Quarterly: 1st and 4th az. 3 fleurs-de-lis, 2 and 1, or; 2nd and 3rd gu. 3 lions pass. guard. in pale or.
420. Gilbert Burnet, Bishop of Salisbury. Impaled: 1st Coat, az. an effigy of the Virgin, crowned and glorified, supporting her Child with her right hand, and holding a sceptre in her left, all or; 2nd Coat, arg. 3 holly leaves in chief, vert, and a bugle-horn in base, sa. garnished gu. a mullet for difference, for Burnet of Leys.
421. See of Canterbury.
422. Sir Robert Cotton Bruce. Az. an eagle displ. arg. beaked and membered gu. for Cotton.
423. Arms of Bruce. Or, a saltire and chief gu.
424. Bruce, King of Scotland.
425. John, King of England.
426. See of Lincoln.
427. See of Salisbury. Az. an effigy of the Virgin, crowned and glorified, supporting her Child with her right hand, and holding a sceptre in her left, all or.

ARRANGEMENT OF THE HERALDRY.

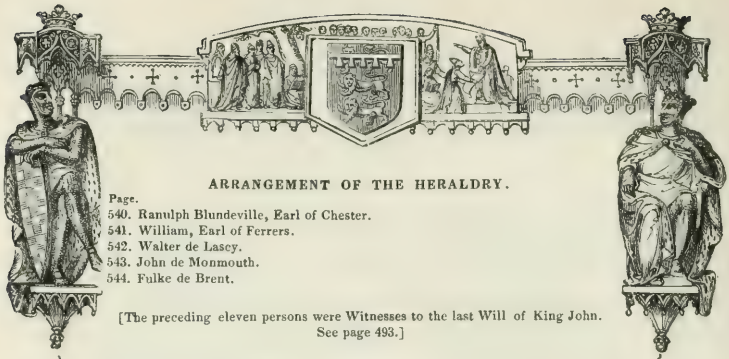
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428. William Laud, Archbishop of Canterbury. Impaled: 1st Coat, Canterbury; 2nd Coat, Laud, sa. on a chevron betw. 3 etoiles or, as many crosses patée-fitchée, gu.
429. See of Gloucester. Az. 2 keys endorsed in saltire, or.
430. Louis, Dauphin of France.
431. See of York. (Modern.)
432. Sir Thomas Bodley. Arg. 5 martlets in saltire, sa. on a chief az. 3 crowns or.
433. City of London. (Modern.) Arg. a cross, in the 1st quarter a sword erect gu.
434. See of Durham. Az. a cross or, betw. 4 lions ramp. arg.
435. Henry III., King of England.
436. William Longespée, Earl of Salisbury.
437. Hales Owen Abbey, Shropshire. Az. a chevron arg. betw. 3 fleurs-de-lis, or.
438. Sir Robert Cotton.
439. City of London. (Ancient.)
440. Humphrey Bohun, Earl of Hereford, and High-Constable.
441. Hugh Bigod, Earl of Norfolk, and Earl-Marshal.
442. Edward I., King of England.
443. See of Durham.
444. Sir Thomas Bodley.
445. Henry VII., King of England.
446. Saxon Kings.
447. William I., King of England.
448. Canute, King of England.
449. Edward the Confessor.
450. Richard II., King of England.
451. Edward I., King of England.
452. George IV., King of England. Quarterly: 1st and 4th England; 2nd Scotland; 3rd Ireland. On an Escutcheon of Pretence ensigned with the royal crown of Hanover, parted per pale and per chevron, the coats of Brunswick, Luneburg, and Saxony; with an inescutcheon for the Arch-Treasurership of the Holy Roman Empire.
453. Sir Edward Coke. Parted per pale, gu. and az. 3 eagles displ. 2 and 1, arg.
454. Sir Robert Cotton Bruce.
455. Bruce.
456. Sir W. Blackstone.
457. Hon. Daines Barrington. Arg. 3 chevronels, gu.
458. City of London. (Modern.)
459. See of Lincoln.
460. George IV., King of England.
461. Plantagenet.
462. Alice of Savoy.
463. See of Dublin.
464. Philip II., King of France.
465. Arthur, Duke of Bretagne.
466. Philip II., King of France.
467. Eleanor of Acquitaine.
468. William, King of Scotland.
469. See of Canterbury.
470. Hubert Walter, Archbishop of Canterbury.
471. William Marshall, Earl of Pembroke.
472. John, King of England.
473. Philip II., King of France.
474. Blanche of Castile.
475. Isabella of Angoulême.
476. Arthur, Duke of Bretagne.
477. Hubert de Burgh.
478. John, King of England.
479. Dukedom of Normandy.
480. Dukedom of Guienne.

ARRANGEMENT OF THE HERALDRY.

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481. Pope Innocent III.
482. Llewellin, Prince of Wales.
483. Thomas de Erdington.
484. Arms of the Popedom.
485. Cardinal Pandulphus Di Masca.
486. Another Coat of the same.
487. Philip II., King of France.
488. Louis, Dauphin of France.
489. Cardinal Jacobus Di Gualo.
490. Louis, Dauphin of France.
491. See of Worcester.
492. Isabella of Angoulême.
493. Almeric de Sancto Mauro.
494. John, King of England.
495. Plantagenet.
496. France. (Ancient.)
497. Stephen Langton, Archbishop of Canterbury.
498. Hubert Walter, Archbishop of Canterbury.
499. Pope Innocent III.
500. Pope Honorius III.
501. Another Coat of Langton.
502. John, King of England.
503. See of Canterbury.
504. Robert Fitz-Walter.
505. Saher de Quincy.
506. Priory of Dunmow. Sable, a cross argent, between 4 mullets, or.
507. John, King of England.
508. Louis, Dauphin of France.
509. William Marshall, Earl of Pembroke.
510. Ancient Banner of London.
511. Benjamin Mildmay, last Earl Fitz-Walter.
512. Lothario Conti.
513. Arms of the Popedom.
514. Pope Innocent III.
515. Louis, Dauphin of France.
516. Philip II., King of France.
517. Henry II., King of England.
518. Canute, King of Denmark.
519. Arthur, Duke of Bretagne.
520. Cardinal Pandulphus Di Masca.
521. See of Norwich.
522. Louis, Dauphin of France.
523. Alexander II., King of Scotland.
524. See of Winchester.
525. Hubert de Burgh, Earl of Kent.
526. John, King of England.
527. William Plantagenet, Earl of Warren and Surrey.
528. King Alfred the Great.
529. Henry I., King of England.
530. John, King of England.
531. Sir Thomas Bodley.
532. Sir Robert Cotton.
533. City of London. (Modern.)
534. Bishop of Durham.
535. Cardinal Jacobus Di Gualo.
536. Bishop of Winchester.
537. Bishop of Worcester.
538. Almeric de Sancto Mauro.
539. William Marshall, Earl of Pembroke.



ARRANGEMENT OF THE HERALDRY.

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540. Ranulph Blundeville, Earl of Chester.
541. William, Earl of Ferrers.
542. Walter de Lascy.
543. John de Monmouth.
544. Fulke de Brent.

[The preceding eleven persons were Witnesses to the last Will of King John. See page 493.]

545. Louis, Dauphin of France.
546. Sir Robert Cotton.
547. John, King of England.
548. See of Worcester.
549. Plantagenet.
550. See of York, (Ancient,) for Archbishop Oswald.
551. See of Worcester, for Bishop Wolstan.
552. Dukedom of Normandy.
553. Earldom of Aquitaine.
554. England.
555. William de Albiniac.
556. Alexander II., King of Scotland.
557. Arthur, Duke of Bretagne.
558. John de Baalun.
559. Robert Fitz-Walter.
560. Hon. Daines Barrington.
561. Roger Bigod, Earl of Norfolk.
562. Henry de Bohun, Earl of Hereford.
563. Hubert de Burgh, Earl of Kent.
564. Canute, King of England.
565. Priory of Christ Church, Canterbury.
566. Richard de Clare.
567. Robert the Consul, Earl of Gloucester.
568. Sir Robert Cotton.
569. Delaval.
570. Dunmow Priory.
571. Edward the Confessor, King of England.
572. Edward III., King of England.
573. Ethelred II., King of England.
574. William Fitz-Patrick, Earl of Salisbury.
575. Robert Fitz-Walter.
576. William de Fortibus, Earl of Aumerle.
577. Alan de Galloway, Constable of Scotland.
578. Cardinal Jacobus Di Gaulo.
579. Henry I., King of England.
580. Henry III., King of England.
581. Hoel Dha, King of North Wales.
582. Howard, Duke of Norfolk and Earl-Marshal.
583. Pope Innocent III.
584. John, Duke of Normandy.
585. Isabella of Angoulême.
586. England. (Ancient.)
587. England. (Modern.)
588. John de Lacy, Constable of Chester.
589. William Laud, Archbishop of Canterbury.
590. City of London.
591. Louis, Dauphin of France.
592. Sir Alexander Malet.
593. William Marshall, Earl of Pembroke.



ARRANGEMENT OF THE HERALDRY.

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594. Roger de Montbegon.
595. Simon de Montfort, Earl of Leicester.
596. Hugh Percy, Duke of Northumberland.
597. Richard de Percy.
598. Philip II., King of France.
599. Saher de Quincy, Earl of Winchester.
600. Richard I., King of England.
601. Robert de Ros.
602. Geoffrey de Say.
603. Sheriffs of London.
604. Stephen, King of England.
605. Inn of the Knights-Templars.
606. George Ferrers Townshend, Marquess Townshend.
607. Robert de Vere, Earl of Oxford.
608. Hubert Walter, Archbishop of Canterbury.
609. Bishopric of Bath and Wells.
610. William I., King of England.
611. Bishopric of Worcester.
612. Arms of the Family of Walmsley of Preston, Lancashire, Gules, on a chief ermine, two hurts.

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ESSAY

ON

MAGNA CHARTA.



THE Norman Conquest in the eleventh century, was a principal and fatal blow to the liberties of Britain; for when William the First became Sovereign, there were but few of the English nation left in the possession of their original estates. As that Monarch's power was entirely arbitrary, the partial laws of a foreign adventurer superseded those which had been instituted by the equity of Edward the Confessor; and these innovations, in the course of years, became a source of doubt and anxiety, even to those on whom William bestowed the possessions which he had wrested from the people of England. Indeed, it required but little penetration to foresee, that the chief who would deprive an inheritor of his ancient patrimony, to reward a follower or a favourite, would not hesitate to dispossess even them,

if policy suggested it as conducive to his own interest. The "act of time," however, made these Normans and their successors look on themselves as the hereditary owners of the estates which William had assigned to them in his newly conquered territory; and they then became anxious that those possessions should descend to their posterity, not to be alienated by any future circumstance. The code of Saxon laws as formed by King Edward, at once preserved all that was due to the tenant, with the requisite powers for the Lord of the Fee: and to gain the restoration of these statutes under which they might securely hold their property, now became the endeavour of the Anglo-Normans; and William the First, William Rufus, Henry the First, and Stephen, were all earnestly entreated to grant their renewal. Promises for future performance, or instruments which were never executed, were all that they received in reply to these repeated petitions; for until the time of King John, the liberties of England thus continued to fluctuate, and a celebrated historian[a] makes the following remarks on the disappointments the Barons met with antecedent to that period.

"This contest remaining undecided during several reigns, both parties had kept up their respective pretensions. When the King was weak, or

[a] Rapin's Hist. of England, Vol. I. p. 275. Edit. 1732, Fol.

in such circumstances as permitted him not to contend, the Barons tried to get the liberties of the English restored, and the Prince not knowing what to do better, put them off with fair promises, which he had no design to perform. But, under able Kings, who were in prosperity, the contest was stifled, and the Barons waited for a more favourable opportunity to compass their ends." A Charter for these liberties was, however, issued by Henry the First, about the year 1100, wherein it is declared that the Church shall be free, that heirs shall receive their possessions unredeemed, that evil customs shall be abolished, and, in fine, relates the greater part of those privileges which the subsequent act of King John more securely confirmed.

The ascent of that Prince to the Throne of England, in 1199, was a proceeding so extraordinary and unprecedented, that it excited the amazement of the whole nation; it is true, his elder brother Geoffrey, had been killed at a Tournament, but his son Arthur was yet living, and should, on the death of King Richard the First, have immediately been proclaimed as the next heir to the Crown of England.—The better, however, to secure the voice of the English nation on the behalf of John, the friends whom he had engaged to support his cause, promised, in his name, a restoration of those liberties the people so earnestly desired, a confirmation of Henry the First's Charter, and a renewal of the Anglo-Saxon laws, as instituted by

Edward the Confessor: and these promises, made at the commencement of a new reign, gave to the Barons a stronger hope for their performance, than they had hitherto entertained. But it was not only the succession of their estates that the Peers of England desired to secure, it was also that certain oppressive customs might be abolished, and more honest regulations instituted in their stead: the Forest Laws, previous to the conclusion of the Great and Forest Charters, were peculiarly harsh and severe; in the first instance, however, their adoption was attended with policy, but when the motives which excited them had expired, their cruel restrictions should also have ceased to exist. In illustration of these remarks the following passage has been selected from Mr. Lewis's publication on the Laws and Customs of Forests.[a]

"In those times," says he, speaking of their regulations as being contemporary with the Feudal System, "when a conqueror settled the economy of a country which he had previously vanquished, it behoved him, in order to secure his new acquisition, to keep the natives of the country, (who were not his military tenants,) in as humble a condition as possible; and more especially to restrain them from the use of arms; and as nothing could do this so effectually as a prohibition of hunting and shooting, it became a matter of policy

[a] Historical Inquiry concerning Forests, &c. p. 3—4.

to reserve this right to himself, or to those of his capital feudatories, (the greater Barons,) on whom he thought proper to bestow it." On this account these laws were both instituted and exerted with much cruelty; but in Canute's Charter, granted at Winchester, in the year 1016, many of the offences committed both on the Vert and Venison, were to be redeemed by fines, and this restriction extended only to the Royal Forests. The succeeding century produced a terrible alteration in these statutes; Beasts of Venery were then considered to belong solely to the King, and the right of taking them to be vested only in him; and while the Norman government carried these regulations to their greatest extent, a wide range of country was appropriated for the chace by the command of William the First, which was then denominated the New Forest. "Within these limits," says Lewis, in the work before cited,[a] "and under the colour of Forest Law, the most horrid tyrannies and oppressions were exercised; the penalties attached to the destroying a beast within the bounds of a Forest, were made almost as severe as taking away the life of a human being. These principles, if we credit the assertion of Matthew Paris, seem to have influenced the mind of John more than that of any other monarch,[b] for his interdict touch-

[a] Ib. p. 6.

[b] Matthew of Westminster, however, remarks of William the First, "that if men disabled a wild beast, they were dis-

ing the chace, extended to the winged, as well as to the four-footed creation." It is not surprising, that from laws such as these, the people of England should contend as earnestly for liberation, as from the other oppressions of the Feudal System; and John would have been as reluctant to confirm the Charter of Forests, as he was to ratify the Charter of Liberties, but the former instrument was at length granted in the ninth year of his successor, King Henry the Third.

Magna Charta first mentions the abolition of these oppressive statutes; as in Chapter LVI. it is thus enacted: "All evil customs concerning Forests, Warrens, and Foresters; Warreners, Sheriffs, and their Officers; Rivers and their Keepers; shall forthwith be enquired into in each County, by twelve Knights of the Shire, chosen by the most creditable persons in the same County, and upon oath, and within forty days after the said inquest, be utterly abolished, so as never more to be restored." But perhaps the most effectual law for the repeal of these statutes, is contained in the X. Chapter of King Henry's Forest Charter, wherein the evil customs alluded to are more particularly explained. "No man, for the time to come, shall lose life or limb for taking our venison; but if any one shall be seized

possessed and imprisoned:" and in another place, "if it were a stag, a buck, or a boar, they were deprived of their eyes." Flores Historiarium, Lond. 1570. Fol. p. 9. 11.

and convicted of taking venison, he shall be grievously fined, if he hath wherewithal to pay; and if he hath not, he shall lie in our prison a year and a day. And after that, if he can find sureties he shall be released; if not, he shall abjure our realm of England."

But although these clauses, in the Magna Charta and the Charta Foresta, seem intended only to condemn and render void such Forest-laws as were of destructive influence; yet Sir William Blackstone[a] observes, that the Archbishops of Canterbury and Dublin, with the Bishops, supposing that the very being of the Forests was endangered by it, made protestation, that the words of the Charter signified, that such customs as tended to the preservation of the Forests should not be abolished. This Protest is recorded in the Tower of London,[b] and in substance is as follows:

"To all the faithful in Christ to whom the present letters shall come;—Stephen, by the Grace of God, Archbishop of Canterbury, Primate of all England, and Cardinal of the holy Roman Church, and Henry, by same Grace Archbishop of Dublin, William also of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, and William of Coventry, Bishops, by the same Grace of the Lord,

[a] Introduction to the English Charters, p. xxi. Edit. Oxford, 1759. Quarto.

[b] Claus. 17 Joh. m. 27. d.

Salutation in the Lord. By our Lord the King hath been granted, and by his Charter it has it been confirmed, that all evil customs of Forests and Foresters and their Servitors, should presently be enquired into in each County, by twelve sworn Knights of the same County, who ought to be elected by true men of the same County, and within forty days after such enquiry hath been made, they shall be destroyed so as never to be recalled within the same; nevertheless, upon condition that our Lord the King shall previously know of this. To all You be it known, that We will that even this article shall be understood on both parts as limited; and expressing that all those customs shall remain, without which the Forests cannot be preserved: And this these present letters do protest."

Another privilege which the people, or rather the Clergy, of England earnestly desired, was the freedom of the Church from several restraints by which it was confined; these restraints were however trifling, in comparison with those which formed the principal ground-work of the Baron's demands. In several instances, King John had imposed a heavy fine upon his Ecclesiastics as well as his Peers; the Crown had also an important vote in the election of Archbishops, and time had overshadowed some of the liberties which the Church had previously possessed; hence Magna Charta restored these, but granted none addi-

tional. Lord Coke, in his Second Institute,[a] when commenting on this instrument, thus remarks concerning it's clerical privileges: "All ecclesiastical persons within the realm, their possessions and goods, shall be free from all unjust exactions and oppressions, but, notwithstanding, should yield all lawful duties either to the King or to any of his subjects, so as *libera* (free) here, is taken for *liberata* (set free), for, as hath been said, this charter is declaratory of the ancient law and liberty of England, and therefore no new freedom is hereby granted, (to be discharged of lawful tenures, services, rents, and aids), but a repetition of such as lawfully they had before, and to free them of that which had been usurped and encroached upon them by any power whatsoever." These grants occupy the first chapter of Magna Charta.

Such, then, were the principal liberties for which Langton, Fitzwalter, and their respective supporters, contended; and here, it may be observed, that the forcible simplicity of this Charter has never been exceeded, any more than the privileges it confirms have ever been surpassed. After having thus stated the grounds on which Magna Charta was demanded, it remains to point out the methods by which it was finally gained and confirmed. Although the Charter of King Henry the First, as Matthew Paris relates, was

[a] Instit. 2d Part. Edit. 1642, p. 2, Note.

sent in the year 1100 to all the English Counties, and deposited in all the principal Monasteries; yet, in little more than a century afterwards, it was so rare that a single copy of that instrument could scarcely be found. King John professed himself unacquainted with it's contents, but the whole Kingdom was rejoiced to find a precedent on which they might found a new Charter.

In the year 1213,[a] a war was pending between England and France, when Philip the Second was preparing, with a great naval expedition, to invade the dominions of King John. This fleet, however, was almost wholly destroyed by his firm friend William Longespée, Earl of Salisbury; and, elated by this success, John was about to extend his conquests into France, when the Barons refused to attend him, as he was an excommunicated man, and his Kingdom was under the dreadful influence of Innocent's Interdict. This curse had then for near six years overspread the whole nation, during which time England resembled a vast city, where

[a] In this year the Barons became so powerful, and John was so destitute of other aid, that he seems to have been almost driven to desperation; for Matthew Paris relates, that he sent Thomas de Erdinton and Ralph Fitz-Nicholas to Murmelius, King of Africa and Spain, with an offer of the Kingdom of England to be held as tributary from him, and to state that he would apostatise from Christianity and embrace the faith of Mahomet, so that aid might be given him against his disloyal subjects.

the dead received no burial, Religion had no ministers, and the people no God. Such a state could not long be endured, and John was never peculiarly famed for fortitude; he therefore recalled the Ecclesiastics he had formerly banished, and meeting them at Winchester, he besought them, with streaming eyes and bended knees, to have pity upon him. After they had proceeded to the Chapter-house of that City, Stephen Langton, the Archbishop of Canterbury, gave the King absolution from his Excommunication, who, holding the book of the Gospels, took the following Oath administered to him by the Prelate:[a] "That he would diligently defend the ordinances of the Holy Church, and that his hand should be against all her enemies: that the good laws of his ancestors, and especially those of King Edward the Confessor, should be recalled, and evil ones destroyed; and that his subjects should receive justice according to the upright decrees of his Courts. He likewise swore, that all Corporations and private persons whom the Interdict had damaged, should receive a full restitution of all which had been taken away, before the time of the approaching Easter, if his Sentence of Excommunication were first removed. He swore, moreover, fidelity and obedience to Pope Innocent and his Catholic successors, and that he would give them that superiority which was already contained in writing."

[a] Matth. Paris, Hist. Maj. Edit. Paris, 1644, p. 166, Folio.

Thus was John freed from the ecclesiastical outlawry under which he had so long lived; but the Interdict which darkened his Kingdom was not removed until the year 1214, when Nicolas, Bishop of Tusculum, the Papal Legate, relaxed it's rigours at London on the twenty-ninth day of June. Both the King and his Realm were then in a comparatively prosperous state to that which had for some years existed; but with these terrors vanished all the promises of John, he deemed the night of his misfortunes past, that Innocent would be his support, and that his Barons would now cease to contend for the liberties of Magna Charta. This hope was as futile as it was deceitful; the Barons finding that John was only temporising with them, convened a general assembly of the Peers and Ecclesiastics at Saint Paul's, when Langton, the Archbishop, stood up and addressed the convocation in these terms:[a] "Ye have heard, when at Winchester, before the King was absolved, I compelled him to swear that the existing evil statutes should be destroyed, and that more salutary laws, namely, those of King Edward the Confessor, should be observed by the whole kingdom. In support of these things are ye now convened; and I here disclose to you a newly-discovered Charter of King Henry the First of England, the which if ye are willing to support, your long-lost liberties may be restored in all their original purity of

[a] Matt. Paris, Hist. Maj. Edit. Ibid. p. 175.

character." The Prelate then proceeded to read the Charter with a loud voice, which so animated the minds of all present, that with the greatest sincerity and joy they swore in the Archbishop's presence, that at a proper season their deeds should avouch what they had then declared, and that even to death itself they would defend those liberties. Langton, on the other hand, promised his most faithful assistance in the execution of their arduous undertaking, and at the same time assured them, that the Covenant then made, would reflect honour on their names through successive generations. This, then, was the conclusion of the first meeting for securing the King's consent to the Magna Charta; from the decisions of which none of that assembly for a moment withdrew their support, until the object which they had so long sought was obtained, and the liberties which preceding Kings refused to grant, were entirely and wholly theirs. But before such a conclusion put the seal of certainty upon the endeavours of the English Barons, many were the difficulties they had to encounter, as well from the unwillingness of the King, as from those of his friends who supported him against them.

Yet, notwithstanding this relation, which is derived from the History of King John, as written by Matthew Paris, Sir William Blackstone seems rather inclined to attribute the discontent of the Barons to some cause unconnected with their

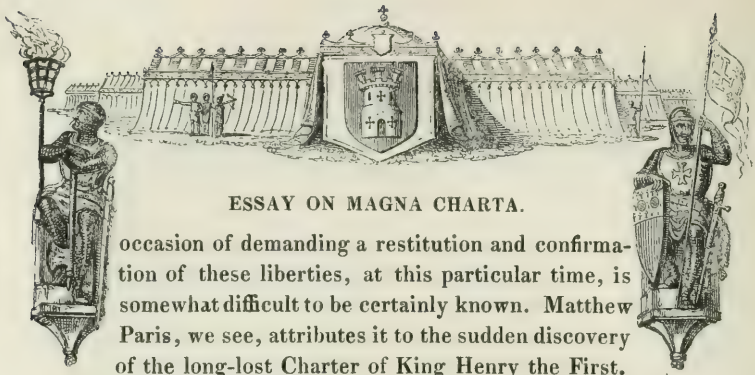
liberties; and indeed, the various historians of that eventful period, assign wholly different reasons for their conduct: the words, however, of that celebrated judicial commentator are of too great importance to be omitted here.

"It must be acknowledged," says Blackstone, in his Introduction to the English Chartæ, "that very many of the articles, contained in the Charter of King Henry the First, were in substance afterwards repeated in that of King John, as will appear by a comparison of the latter in the present edition, with the former as inserted in the notes.[a] Yet it cannot but seem very extraordinary, that since Matthew Paris himself informs us, that copies of King Henry the First's Charter were sent (A. D. 1100.) to all the Counties in England, and deposited in the principal Monasteries; since the same were expressly confirmed by his grandson, King Henry the Second, as appears from his Charter; and since the laws of King Henry the First were commanded to be observed by King John's own authority, on the 4th of August; this Charter should notwithstanding have been so totally forgotten by all the Prelates and Barons assembled at St. Paul's within three weeks afterwards, that it's discovery by the Archbishop should be a matter of such novelty and triumph: nay, that the King

[a] The comparison may also be made by a reference to the Translations attached to this Essay.—Vide Magna Charta and Notes.

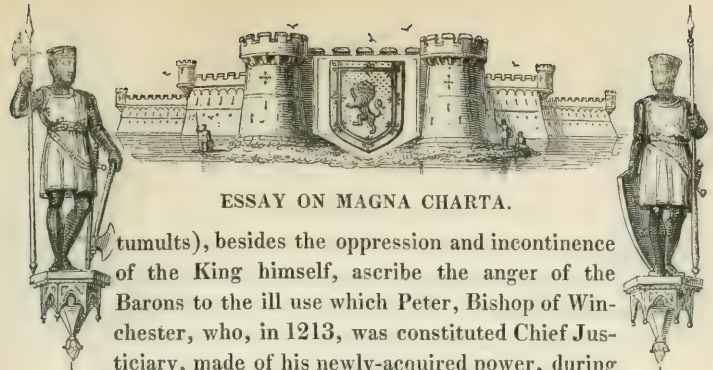
himself, at Easter 1215, should want information what those laws and liberties were, that were then so earnestly demanded of him. Nor, indeed, if this charter was thus uppermost in the minds of the Barons, can we at all account for their forgetfulness at the Congress of Runningmede; the name of King Henry the First not once occurring in the Capitula, or rough draught, of the Great Charter, nor even in the Charter itself. It is possible however, that though the circumstances with which it is embellished are very suspicious and improbable, yet the story itself may have so far a foundation in truth, that the recollection and remembrance of the Charters, which the King's predecessors had granted, might suggest to the Prelates and Barons the propriety of demanding another; and therefore might teach them the greater expedience of having the liberties they claimed openly set down in writing, than of relying on the general terms of the oath which the King had just taken at Winchester."

"For it is agreed by all our Historians, that the Great Charter of King John was for the most part compiled from the ancient customs of the Realm, or the Laws of King Edward the Confessor; by which they usually mean the old Common Law, which was established under our Saxon Princes, before the rigors of fœdal tenure and other hardships were imported from the continent by the Kings of the Norman line. But the immediate



occasion of demanding a restitution and confirmation of these liberties, at this particular time, is somewhat difficult to be certainly known. Matthew Paris, we see, attributes it to the sudden discovery of the long-lost Charter of King Henry the First. Knyghton, Hemingford, and Robert of Gloucester, agree in asserting, that the King's inordinate debauchery was the cause of these civil dissensions; and the two former have given us a particular account of the plot laid by the King to vitiate the wife of Eustace de Vesci, a principal Baron of those times, who thereupon (it is said) stirred up the other Barons to assert their liberties by force of arms.[a] And this receives some countenance, not only from the testimony of a contemporary writer, who informs us that the King had caused that nobleman and Robert Fitzwalter to be outlawed, had seized their lands, and had demolished their castles; but also from a mandate which was sent by Pope Innocent the Third to Eustace de Vesci, 5th November, 1214, and is preserved in Rymer's Fœdera, requiring him to cease from troubling the King by any farther confederacies or conspiracies against him, since the differences between the kingdom and the priesthood were now providentially allayed. But the Annals of Waverley (which are also apparently contemporary with these

[a] Henry de Knighton was an Historian of the time of Richard II., and has recorded the above circumstance in his work of the Events of England: an abstract of it will be found on page 291 of the present volume.



tumults), besides the oppression and incontinence of the King himself, ascribe the anger of the Barons to the ill use which Peter, Bishop of Winchester, who, in 1213, was constituted Chief Justiciary, made of his newly-acquired power, during the absence of King John in France. And this appears the more probable, because the nobility were from the first extremely disgusted at his promotion, taking it very ill that a foreigner should be preferred above them all; and because in the Great Charter we find the power of the Chief Justiciary considerably curbed in many instances, and a strong inuendo given, that the officers of justice had been deficient in the knowledge, or at least in the observance, of the laws of the land. Possibly, indeed, these motives did all of them concur to animate the conduct of the discontented Barons: domestic injuries received from the King in person, coupled with some gross acts of national oppression by his minister, might whet their private resentment, as well as rouse their public spirit, to demand a new security against such tyrannical proceedings for the future."[a]

The preceding remarks of Sir William Blackstone, point at another cause for the demands of the English Peers; but however this might be, the liberties of Magna Charta formed the only ostensible motive under which they continued to act. The Barons thus united in themselves, but

[a] Blackst. Introd. p. iv—ix.

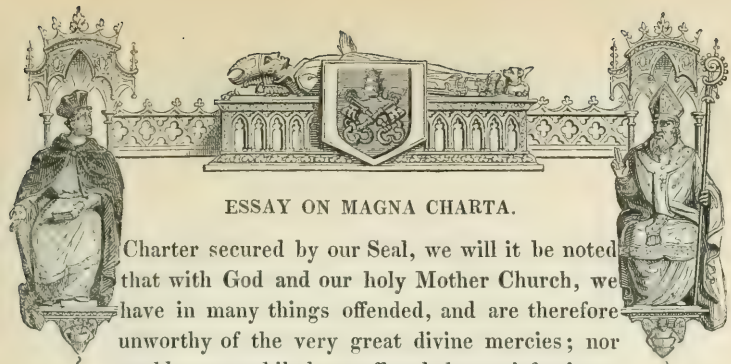
divided from their Sovereign, gave to Innocent the opportunity of renewing his demands upon John, who, as his tributary, sent to him for assistance against them; and it was then that Nicolas, Bishop of Tusculum, came over to relax the interdict, and secure the Pope's sovereignty in England, by receiving an additional act of submission from the King. Until this act was performed, and a new resignation sent to Rome, it was vain to expect any aid from Innocent; yet even when all the Legate's demands were conceded, and the Barons perceived their alliance was discovered, Innocent refrained from interfering until they should be more inclined to submit to his authority.

At John's first resignation of the Crown, Cardinal Pandulphus addressed the King in the most haughty and degrading terms: and as the ceremonial of that proceeding was at once the foundation and precedent for the second demand, a translation of the Deed by which England was originally consigned to the Pope, and the words then spoken by the Sovereign, are here inserted from Holinshed's Chronicles of the English Nation.[a]

"The Charter of King John, his submission, as it was conueied to the Pope at Rome.

"John, by the grace of God, King of England, to all the faithful in Christ who shall see this Charter, Salutation in the Lord. To all you, by this

[a] Chron. Folio, Vol. II. p. 177. Edit. Lond. 1586.



Charter secured by our Seal, we will it be noted that with God and our holy Mother Church, we have in many things offended, and are therefore unworthy of the very great divine mercies; nor could we worthily have offered that satisfaction to God and the Church which is appointed to be made, unless we ourselves had abased us, and with our Kingdom had willingly humiliated us; for he that humbled himself to death for us, shall inspire us with the grace of his holy spirit: therefore, not by the violence of command, neither by the compulsion of fear, but of our voluntary act, as conferred of in the Common Council of our Barons, we have freely given unto God, and his holy Apostles Peter and Paul, and our Mother the Holy Church of Rome, and our Lord Pope Innocent, with his catholic successors, the whole Kingdom of England and the whole Kingdom of Ireland, with all the rights and extents of them, for the remission of all our sins and all those of our sons, as well for the living as the dead, and therefore, henceforth, from him and the Church of Rome, we do as it were, secondarily, receive and hold them, in the presence of the learned Pandulphus, our Lord the Pope's Subdeacon and familiar friend.

"From this time to our Lord the aforesaid Pope Innocent and his catholic successors, and the Church of Rome, we have made and sworn to the underwritten form and league of Homage in the

presence of Pandulphus, and have made the same as if we were in the especial presence of our Lord the Pope: We also engage that our successors and the heirs of our marriage perpetually, shall give in the same manner as we, a like sum to the Pontiff for the time being, and to the Church of Rome, and shall without contradiction faithfully pay the debt, and recognise the homage.

"And also in token of this our perpetual engagement and concession, being willing and stedfast, as well as of our proper and special delivery of our aforesaid kingdoms, for all service and custom, saving always the blessed Peter-pence, there shall be made owing to the Church of Rome a thousand marks sterling, which shall be taken annually; that is to say, at the feast of Saint Michael five hundred marks, and at Easter five hundred: namely, seven hundred for the Realm of England, and three hundred for the Kingdom of Ireland, saving Us, our Heirs, Justices, Liberties, and our Royalties.

"All which, such as it is before written, are to be willingly and constantly rated; and we do engage for us and our successors, to act contrary in nothing: and if we, or any of our successors, whoever he may be, presume to attempt any thing against this, he shall, unless he formally repent, fall from his right in the Kingdom.

"And this our Charter of obligation and concession, shall always remain permanent. Witness

myself at the house of the Knights Templars near to Dover, before Henry, Archbishop of Dublin; John, Bishop of Norwich; Walter Fitz-Peter; William, Earl of Salisbury; William, Earl of Pembroke; Reginald, Count of Boulogne; William, Earl of Warren; Saher, Earl of Winchester; William, Earl of Arundel; William, Earl of Ferrars; William Briwere; Peter Fitz-Herbert, and Warren Fitz-Gerald, the fifteenth day of May, and the fourteenth year of our reign."

"This deed and instrument being written and ingrossed, the King deliuered it vnto Pandulph, to take with him to Rome, there to make deliuerie thereof to Pope Innocent, and herewith did homage to the same Pope, in forme as followeth.

"The wordes of fealtie made by King John to the Pope:

"John, by the Grace of God King of England, and Lord of Ireland, from this houre forward, shall be faithfull to God and to Saint Peter, and to the Church of Rome, and to my Lord Pope Innocentius, and to his successours lawfully entring. I shall not be in word nor deed, in consent or counsell, that they should lose life or member, or be apprehended in euill manner. Their losse, if I maye know it, I shall impeach and staie soe far as I shal be able, or else soe shortlie as I can I shall signifie vnto them, or declare to such person the which I shall beleeue will declare the same vnto them. The counsell which they shall commit to

me by themselues, their messengers, or letters, I shall keepe secret, and not vtter to any man to their hurt to my knowledge. The patrimonie of S. Peter and speciallie the Kingdomes of England and Ireland, I shall indeavour my selfe to defend against all men to my power. So helpe me God, and these holie euangelists. Amen. These things were done on the eeue of the Ascension of our Lord, in the year 1213."

The second resignation of England took place at Westminster, before the Peers and Ecclesiastics, when a new instrument of concession was drawn up and sealed with gold, instead of wax, like the former, in order to give additional value to it's authority.—The character of Langton here shews in a beautiful light; his mind was so much affected by beholding the Kingdom yielded a second time into the hands of a capricious priest, and seeing it would militate considerably against the liberties he wished to secure, that, in the presence of all, he declared his solemn protest against these proceedings, and laid that protestation on the altar before them. Cardinal Pandulph de Masca, after this formal resignation, immediately departed to Rome with the assignment, where, influenced by the then prevailing spirit of ecclesiastical party, he pronounced John "the most pious of princes," but designated Langton and the lords as tumultuous, dissatisfied, and factious individuals. Spiritual artillery appears to have been the only force

with which Innocent assisted John; but he indeed, issued those excommunications which a breath decreed or removed, and suspended from office those ecclesiastics who continued refractory to the King's commands.

The year 1214 continued to pass away without any appearance of the liberties of Magna Charta being instituted, or King Edward's laws being recalled; but about the month of November, or, as some authors have supposed, on the 20th, Saint Edmund's-day, a second meeting of the Peers and Clergy took place at Saint Edmund's Bury, to take into consideration the most effective methods for the obtaining of their demands. This convocation being made under pretence of devotion, but little suspicion could be excited of it's real purposes. Before the Barons was laid the Charter for which they contended, whilst Langton stood behind the high altar in the midst of the assembly, to receive their protestations, and to give to their proceedings all the sanction which ceremonial services could impart. It was then, irritated by the unexpected delay which they had found, with their actions calling on the Prelate to witness their oaths, and their voices entreating Heaven to confirm them, the Barons of England swore to support the Charter of Liberties in these terms. That the King should immediately grant and confirm the said laws and liberties, by a Charter under his seal, or that they would withdraw themselves from

his fealty, until they should gain the satisfaction they desired. "And at length it was agreed," continues Matthew Paris,[a] "that after the Nativity of our Lord, they should come to the King in a body, to desire a confirmation of the liberties before-mentioned. And that in the mean time they were to provide themselves with horses and arms in the like manner;—that if the King should perchance break through that which he had specially sworn (which they well believed), and recoil by reason of his duplicity, they would instantly, by capturing his castles, compel him to give them satisfaction."

The impatient and ardent dispositions of the Barons inflamed by these meetings, kept them but too well to their engagements; for in the commencement of the following year, 1215, and at the feast of the Epiphany, their armed bands appeared before King John:—but the historian[b] of that period will best relate the circumstances.

"The demand for the Liberties of England made by the Barons.

"In the year of grace one thousand two hundred and fifteen, which is the seventeenth year of King John; the same King held his court, from the Birth of our Lord, at Worcester, the space of one day. From thence he came with all haste to London, and was received at the New

[a] Hist. Major. p. 176. [b] Ib.

Temple Inn. Here, then, came to the King the aforesaid great Barons, in a very resolute manner, with their military dresses and weapons, almost demanding the liberties and laws of King Edward, with others for themselves, the Kingdom, and the Church of England; to be granted and confirmed according to the Charter of King Henry the First, contained in the before-mentioned writing. They asserted, moreover, that at the time of his absolution at Winchester, those ancient laws and liberties were promised, and that he was obliged to observe them by a special oath. But the King hearing that the Barons were so resolute in their demands, was much concerned at their impetuosity: when he saw that they were furnished for battle, he replied, that it was a great and difficult thing which they asked, from which he required a respite until after Easter, that he might have space for consideration; and if it were in the power of himself or the dignity of his crown, they should receive satisfaction. But at length, after many proposals, the King unwillingly consented that the Archbishop of Canterbury, the Bishop of Ely, and William Marshal, should be made sureties; and that by reason of their intercession, on the day fixed he would satisfy all."

A certain period was thus assigned when the civil contentions between the King and his subjects should be finally terminated: when the former should restore that which time only had abrogated,

and the latter should receive that for which they so fervently contended; and for the due performance of this engagement the King, as already mentioned, gave three securities. But John, during the period yet allowed him, endeavoured, by various means, to fortify himself against the conclusion so long procrastinated. He caused the Oath of Allegiance to be again administered to all his subjects, received the acts of homage from his own peculiar vassals, assumed the Cross in order to shelter himself beneath the Ecclesiastics' protection, and finally, the better to secure their concurrence, yielded a part of those liberties for which they contended in the Magna Charta. Notwithstanding all these precautions, this King, it cannot be denied, was peculiarly unfortunate in the dependence he placed upon his friends, or rather those whom he endeavoured to conciliate; as they were frequently unable, or else became unwilling to render him any assistance. This was the case in the present instance: Easter arrived, and the impetuous Barons appeared with a powerful army at the town of Stamford in Lincolnshire, to receive John's ratification of his promise. The King was, however, awaiting their coming at Oxford, from whence, upon receiving an account of their numbers and situation, he did not remove to attend the conference, but deputed William Marshal Earl of Pembroke, and, as Matthew Paris adds, the Archbishop of Canter-

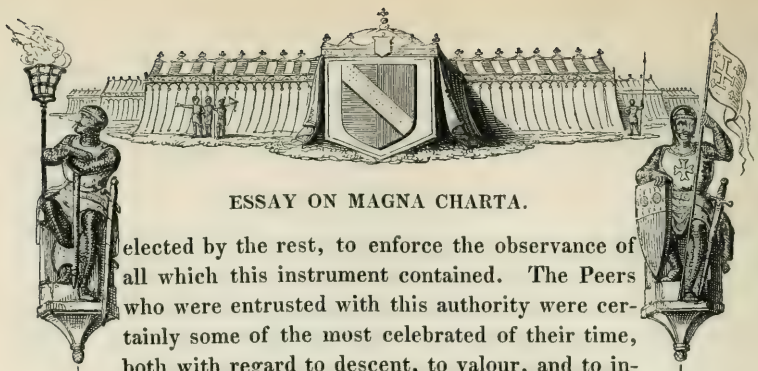
bury, two of his securities, to go to Stamford upon his behalf, and to demand a farther account of those laws and liberties which were so earnestly desired. This was only again reciting what was already "a twice told tale;" a schedule of the requests was however delivered to the royal messengers, with the assurance, that if the King still refused to confirm them, the Peers were resolved at once to break through all the ties which had hitherto withheld them, and force his lingering consent by seizing upon his fortresses. John conceiving he had now a fair opportunity to resent their factious conduct, was thrown into the most violent agitation by this answer, and with a passionate oath declared, that it was their wish to deprive him of his Kingdom, but that his consent should never be yielded to liberties which would involve his prerogative in slavery.

The Barons were well aware, by such a reply, that time would effect but little in their behalf, and that force alone could prosper their faultering cause; accordingly they prepared to execute those resolutions which their message to John had already premised. In pursuance of these intentions they elected Robert Fitzwalter, Baron of Dunmow, their leader, under the title of "Marshal of God and the Holy Church," and by his direction laid seige to the Castle of Northampton. Here, however, meeting with no success, the Baronial Army withdrew to Bedford, where the Castle was yielded

to them by William de Beauchamp, it's owner. While the Barons were thus openly proceeding, a secret plan of operation was also carrying on with the principal inhabitants of London, who had agreed to deliver up to them one of the gates of the City: accordingly, by means of rapid marches, they arrived at London on May the 24th, and about day-break entered the City at Aldgate. Although King John had secured himself in the Tower, yet so well were these movements conducted, that he remained wholly ignorant of them, and of the Barons' intentions to besiege that fortress; but the advantages they had now gained were too material to deter them from incurring any hazard to assist their cause. The whole voice, however, of the British Peers was not comprised in the Baronial Army; for some of them had yet retained their allegiance to King John, and others again had remained entirely neuter; the better, therefore, to draw these over to the general interest, while preparations were making for the seige, circular letters were sent demanding their assistance against the King, or assuring them of the heaviest vengeance on their estates and castles. Such menaces were not in vain; for the neutral Peers joined the Baronial Army, some of John's firmest friends left his cause as hopeless, and the King himself sent the Earl of Pembroke as a messenger to his Peers, to declare his readiness to ccede to their demands. Thus, notwithstanding

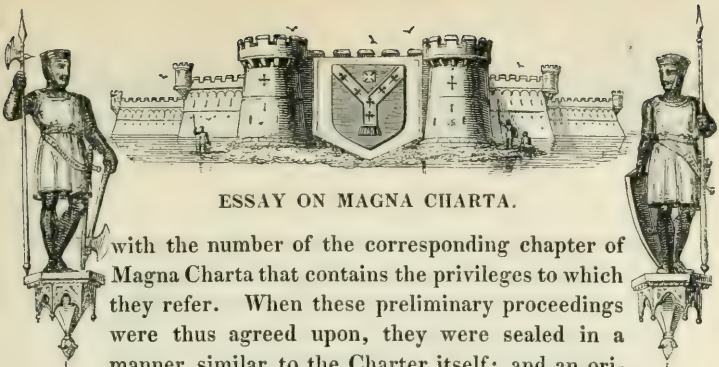
all that John had undergone to oppose the designs of his Barons, he at length found himself forced to yield upon their own terms; but all other endeavours were vain, and an early period was assigned for the conclusion and ratification of the Great Charter.

Between Staines and Windsor is a large tract of Meadow land, where this meeting between the King and his Peers was appointed to be held: a stream which flowed through it gave to it the name of Running-Mead, or Runnemede, but the same spot also bore the name of Council-Meadow, because in former times it was devoted to such purposes. Here, then, on the 5th of June, appeared the conflicting parties: and while John was attended with but few supporters, the Barons were followed by such vast multitudes, that had the King again endeavoured to retract, the attempt would have proved as unavailing as it would have been deceitful. An opportunity so favourable seems to have encreased the demands of the Peers; but while John appeared willing to concede them all, he at the same time considered that the more extensive these were, the less blame could be attributed to him when he should think proper to withdraw from a covenant made under such circumstances. The Great Seal of England was then appended to Magna Charta, which was likewise confirmed by the King's solemn oath; but it's greatest security was, that twenty-five Barons were



elected by the rest, to enforce the observance of all which this instrument contained. The Peers who were entrusted with this authority were certainly some of the most celebrated of their time, both with regard to descent, to valour, and to intellectual endowments: their names were, Richard de Clare, Earl of Clare; William de Fortibus, Earl of Aumerle; Geoffrey de Mandeville, Earl of Gloucester; Saher de Quincy, Earl of Winchester; Henry de Bohun, Earl of Hereford; Roger Bigod, Earl of Norfolk; Robert de Vere, Earl of Oxford; William Mareschall, junior; Robert Fitz-Walter, Gilbert de Clare, Eustace de Vescy, William de Hardell, Mayor of London; William de Mowbray, Geoffrey de Say, Roger de Mumbezon (Mount Begon), William de Huntingfield, Robert de Ros, John de Lacy, the Constable of Chester; William de Albeniac, Richard de Percy, William Malet, John Fitz-Robert, William de Lanvalay, Hugh Bigod, and Richard de Muntfitchet.

Previous, however, to the conclusion of Magna Charta, the principal liberties it contained were drawn up and received the sanction of John's consent, as preparatory to the final settlement of the more perfect instrument. These Articles recapitulated in the same order, and nearly in the same words, the substance of the various chapters afterwards inserted in the Great Charter; and as translations of both these deeds are given in this volume, the divisions of the Articles are marked



with the number of the corresponding chapter of Magna Charta that contains the privileges to which they refer. When these preliminary proceedings were thus agreed upon, they were sealed in a manner similar to the Charter itself; and an original schedule of these is preserved in the British Museum, with the seal of King John in brown wax, pendant from the parchment. As John had now conceded to all the claims which the discontent of his Barons could devise, or their hatred demand, it might be expected that the remainder of his reign was passed with the faithful allegiance and love of his subjects, but this was not the case; they feared the King might yet retract his engagements, and they demanded, says Blackstone,[a] "a real and substantial security for his performance of the articles of the Charter; nothing less than the custody of the City and Tower of London, till the 15th of August then next ensuing, and afterwards till the Charter should be carried into execution. To this the King also consented, if compliance in his circumstances may be called a consent, and the custody was actually delivered."

The Covenant[b] which thus originated, contained a particular account of the Writs for electing the twelve Knights, who were to rectify the Forest laws and customs: these were dated on the nineteenth day of June, which was four days after the conclusion of Magna Charta and the period when

[a] Introduction, p. xxii. [b] Vide the Translation.

the assembly was dismissed. These Writs, or Letters of Election, as they are called by the Covenant, were a material part of the newly-granted liberties, inasmuch as they gave to the Barons the power of watching over the pure administration of the enactments of Magna Charta. They were addressed by the King, to the Sheriffs, Foresters, Warreners, Keepers of Water-banks, and their Bailiffs, in the various Counties; and command, that according to the Charter which had been concluded, they should proceed to swear to the twenty-five Barons, and afterward commence the election of the twelve Knights in their respective Counties. These Writs concluded by a command for the Officers to whom they were addressed, to make choice of such men as would support the King's honour, the peace of the Kingdom, and the laws contained in the Great Charter.

King John was thus seemingly cleared from the continual harrassings with which his Barons darkened his short and unhappy reign; but though he had resigned all which they demanded, and had satisfied their extensive claims, yet in the King's mind there was a deep and indelible regret for having thus yielded to the violence with which most of their resolutions had been conducted. A celebrated English historian speaks in the following terms concerning the manner in which the late grant of Magna Charta preyed upon the health and the disposition of John. "Great rejoising,"

says Holinshed,[a] "was made for this conclusion of peace betwixt the King and his Barons, the people iudging that God had touched the King's heart, and mollified it, whereby happie daies were come for the realme of England, as though it had beene deliuered out of the bondage of Aegypt: but were much deceiued, for the King having condescended to make such grant of liberties, farre contrarie to his mind, was right sorrowfull in his heart, curssed his mother that bare him, the houre that he was borne, and the paps that gaue him sucke, wishing that he had receiued death by violence of sword or knife, in steed of naturall norishment: he whetted his teeth, he did bite now on one staffe, and now on an other, as he walked, and oft brake the same in pieces when he had doone, and with such disordered behauiour and furious gestures he uttered his greefe, in such sort that the noble men verie well perceiued the inclination of his inward affection concerning these things, before the breaking vp of the councell, and therefore sore lamented the state of the realme, gessing what would come of his impatiencie and displesant taking of the matter."

If this melancholy description were a real picture of John's mind after the conclusion of Magna Charta, he was indeed reduced to a miserable state; and this in a twofold sense, for he was not

[a] Vol. II. p. 186.

only bent under the weight of his present evils, but his Peers perceiving how much his extorted concession oppressed his thoughts, and fearful of his swerving from it, were prepared to resort to the same violent methods for it's preservation, as those which they had already made use of to gain it. The future actions of John's life were then smouldering in his breast, like the sleeping yet unsubdued fires of a volcano: his intentions were however already suspected by many of his Peers, and while the King was secretly providing for the success of his plans, they were not less anxious for the security of theirs. Hence arose a mutual mistrust, which the sealed deed of Magna Charta could by no means dissipate; but it was regarded by one party at least, as only a temporising expedient, to put an end to the civil feuds which were spread over all the Kingdom. In the midst of the schemes which John had commenced, to render void that engagement which he could never remember but with agony, he died suddenly at Newark on the 19th of October, 1215:—by poison, as it is related by some writers, and through the infirmities induced by a broken heart and constitution, as it is asserted by others. There are but few, however, at the present time, who give any degree of credence to the former relation; yet whoever attentively considers the utter hatred which was entertained for John by almost all his subjects, but more especially by the Ecclesiastics, will per-

ceive but little reason why this account should be supposed wholly traditional. The celebrated Rapin,[a] and his annotator, Morant, have thought it a sufficient argument against it's truth to remark, that it was improbable for "a man to poison himself to be revenged of another:" but as the mistaken Friar believed he was acting in the most patriotic and virtuous manner, in rescuing England from a tyrannic power, so he gave himself, without scruple, as a martyr to the cause, confidently expecting as a reward, an immediate and an eternal beatitude. The same authors also observe, that this circumstance is neither mentioned by any contemporary historians, nor even by any who lived within sixty years of that time. This argument will go, however, but a short distance to prove the falsity of the relation. Matthew Paris, and from him the principal account of John's reign is derived, was too great an enemy of that King to allow of any vices in the opposing party; particularly in that class of society, by a member of which this act is said to have been committed. During the space of sixty years it was in every one's memory, and after that period, it is more than probable, that, had there not existed some foundation for such a report, it could never have descended to later times through the medium of written history.

[a] Vol. I. p. 279, note 7.

After the death of King John, the Barons were again in motion to secure for Magna Charta the consent of his successor. Although it was declared that the subsequent Monarchs of England should adhere to it's laws, yet the Peers had experienced so much duplicity and procrastination in John, that they determined to proceed at once, in the plainest and most resolute manner, with his son Henry. The youthful state of this Prince, was probably his most effectual preservative from immediately undergoing the same distresses which marked the reign of King John; nevertheless, at a future period of his long-extended sway, he experienced some of those troubles; for the Barons having once gained their point by a resolute conduct, were always prepared to resort to the same plan of proceeding, whenever they conceived their Charter to be infringed. There was something, however, in this method of ruling the Sovereign power, which, it may be easily supposed no King could ever yet agree to; and although the Council of Henry the Third confirmed Magna Charta while he was a minor, yet when he was declared King of England, he became almost as procrastinating as his father. As, however, this Essay is limited to the History of the Grant of King John, little more than an outline of the acts of his successors can be expected.

The King's death appeared to be fatal with regard to the Crown's descent in his family;

Louis, the Dauphin of France, whom the Barons had invited to rule over Britain, was still actively pursuing the advantages he had already gained, and the Barons were nearly all united with him; the Royal Army was composed of foreigners whom John never trusted, and the succeeding Sovereign was only ten years old when the kingdom devolved to him. In this hopeless state, William Marshall, Earl of Pembroke, the principal adviser and supporter of John, came forward to give his experience and loyalty to the cause of the youthful Henry:—he first wrought so successfully with the Barons, that he procured their consent to his Coronation, which was performed at Gloucester, on the 28th of October, 1215, by Cardinal Gualo, and he then became, by the national voice, the Protector of his juvenile Sovereign. From the time this excellent noble appeared at the head of the government, the Plantagenet interest rose in proportion as that of the Dauphin's declined. The Council of the young Henry had already renewed Magna Charta on the 12th of November, 1216, with amendments adapted to the times, and thus his affairs seemed changed from a state of anarchy and revolt, to a calmer situation for that period, and a prospect of greater satisfaction for a future one. This renewal of Magna Charta was rapidly published both in England and Ireland; a peace was concluded between the Dauphin and Henry; and an additional Charter, with one also for the

Forests, of which no copy is now remaining, was, on the 23d of September, 1217, granted by the latter Sovereign, containing several emendations and improvements.

In the year 1223, Pope Honorius III. issued a Bull, declaring that the King, then seventeen years old, was in many respects of full age; and in consequence, commanding all who held any of his property, to yield it into his hands. The Barons, who feared that Henry, on the assumption of his full powers, would also recal the liberties which he had previously granted, endeavoured to excite the people to demand of him their confirmation. In the following year, Louis VIII. King of France, (the late Dauphin), so deceitfully conducted himself with regard to the English possessions in that country, that an army was obliged to be raised to march against him. A Parliament was therefore summoned, and Henry demanded of them a supply; which they consented to grant, provided he confirmed those liberties they required. On the 11th of February, in the year 1224, these mutual demands were complied with; and the King also took every means in his power to render these Charters effectual, by sending Commissioners with copies of them into every County, to enforce their performance. But even at this period, Magna Charta and the Charta de Foresta, the first of that kind now extant, were both at some distance from their final establish-

ment. Early in the year 1226, Henry, at the age of twenty, actually began to assume the management of his own affairs; in which conduct, he was afterwards supported by a Bull from Gregory the Ninth. At that period, it is related that he recalled the Forest Charters, under the pretence of their having been granted before he had full power over the Great Seal. Such a resumption was doubtless the occasion of much discontent; but although the Barons were again about to resort to their swords, yet Henry, by giving up some lands which were claimed by their leader, Richard Plantagenet, Earl of Cornwall, found means at once to avoid their resentment, and the renewal of the Charters of Liberties.

In 1236, and again in 1253, the Charters were re-published, as a compensation for two supplies granted to the King. In the latter year, King Henry under pretence of going to the Holy-land, although his real intent was to prosecute his wars in Guienne, summoned a Parliament to meet on the 5th of May, and demanded a large subsidy to enable him to fulfil his purpose; representing to it, the oppression which the Christians in Palestine, must have endured by reason of his delay. The Kingdom in general however, knew that it was the rebellions in Gascony which occasioned Henry's solicitations; and while a direct refusal was dangerous, it was determined by the Barons that Deputies should be sent to the Monarch, with an assurance

of their compliance, provided he would faithfully observe the Charters of Liberties. He replied fairly to the Secular messengers, but to such as were Ecclesiastics, he represented that the freedom of clerical election which they asked, was hardly desired by them; since they illegally held many rich Bishoprics and Abbies, which he assured them should be filled with learned and pious men, if they were resigned. These mutual upbraidings were at length concluded, by the Clergy giving to Henry the Tenths of their Revenues for three years; and by the Barons yielding three marks of every Knight's-fee held in-chief of the Crown. The King, on his part of the contract, summoned an assembly in Westminster-hall on the 13th of May, where all the Lords, both Spiritual and Temporal, were present, holding lighted tapers; though Henry declined taking one, because he was not a priest, but he promised to keep his hand placed open upon his heart during the whole ceremony, as a proof of his sincerity. Boniface of Savoy, Archbishop of Canterbury, then read a Sentence of Excommunication, which before both in 1224 and 1237, had been privately denounced against all who should in any manner oppose or violate the two Charters, or alter the Laws and Constitutions of the Kingdom. Following this were read those instruments themselves, which were allowed of by the King, "and at the close," says Matthew Paris, "every one cast down his taper

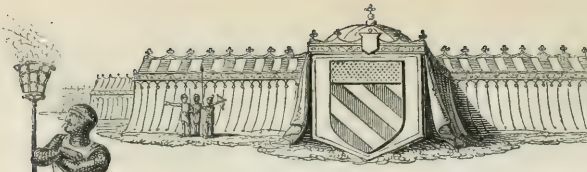
extinguished and smoking, and said, 'so may all who incur this sentence, be put out and become corrupt in Hell:' to which the King immediately added, 'So help me God, as I keep all these things inviolate as I am a Man, as I am a Christian, as I am a Knight, and as I am a King crowned.[a]'" With the exception of some ecclesiastical disputes upon the Charters, and a few general confirmatory writs and proclamations respecting them, but little mention is made concerning them till the year 1264. The King, and his son Prince Edward, owing to the Civil Wars in which they had been engaged, were at that period in the custody of Simon de Montfort, Earl of Leicester; and Henry, in order to procure the Prince's liberty, sealed the Charta Confirmationis of the 14th of March, 1264. This unhappy Sovereign had but little farther connection with these instruments, for dying on November the 16th, 1272, he was succeeded by Edward the First, who was at that time on his voyage to Sicily.

Until 1297, the Charters were doubtless in a neglected state; but in that year, when King Edward had in some measure arranged his Scottish affairs, he was anxious to proceed to Flanders, to avenge himself on Philip the Fair, King of France, for his fraudulently preventing the union of the daugther of the Earl of Flanders, with Prince Edward of England. To strengthen and support

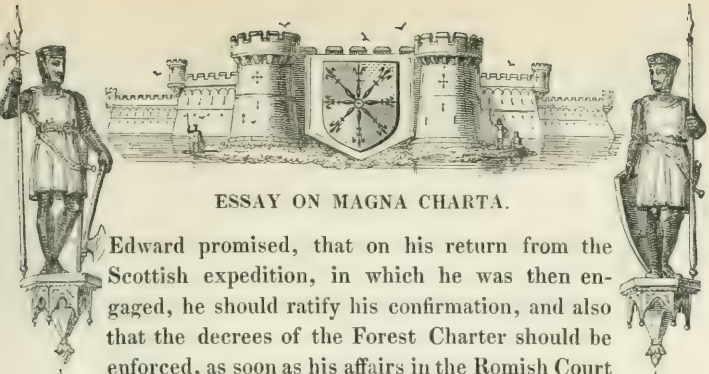
[a] Hist. Mag. sub Henr. III. An. 1253, page 580.

the British Forces, which alone were not sufficient to oppose King Philip, Edward formed a League with the Emperor Adolphus, Albert Duke of Austria, and several other German Princes, the Duke of Brabant, and the Earls of Flanders, Holland, Juliers, and Luxemburg, by whom men were to be supplied, in return for large subsidies sent from England. To meet these engagements, the King summoned a Parliament at St. Edmund's Bury, on the 11th of November; which gave to him the eighth penny from all Merchants and Citizens of Cities and Towns, and a twelfth from all the remainder of the Laity. The Ecclesiastics, however, refused him any kind of aid,—notwithstanding he represented to them that they enjoyed the same estates and protection as the rest of his subjects,—and pleaded for their exemption, a Bull issued in 1296, by Pope Boniface VIII., which forbade the Clergy paying any Tax to Secular Princes, without the consent of the Romish See. In consequence of their refusal, the King determined upon the bold expedient of seizing their lay-possessions, and displacing them from the benefit of the Laws. Even their powerful influence was vain, when exerted to contend with a Prince like Edward; and at length the greater number of them compounded with him for a fifth part of their goods, and Robert Winchelsea, Archbishop of Canterbury, who was the principal adviser of these proceedings, yielded up a fourth part for

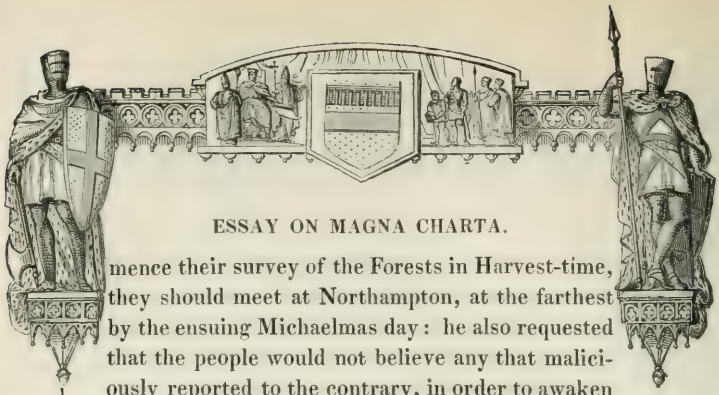
himself. On the 25th of February, 1297-98, King Edward called together the Nobility at Salisbury, to ascertain what forces he might expect from each Baron; as he wished not only to attack Philip in Flanders, but also to make a powerful diversion in Guienne. The Nobles who were willing to furnish troops, and to march where the King himself commanded, would nevertheless not accede to serving in Guienne; in consequence of which Edward replied, that he should transfer their lands to such as would be more mindful of his orders. This alarmed them, and Humphrey Bohun, Earl of Hereford, Lord High-Constable, and Hugh Bigod, Earl of Norfolk, Marshal of England, answered the King, that when he commanded in person, they would follow, but not otherwise. Bigod, added to this, that as his office obliged him, so he was willing to lead the vanguard under the Sovereign, but that he would not serve under any other, and none could of right force him to do so. This altercation increased so much, that at length Edward in very great anger exclaimed, with a depraved and unbecoming jest upon the name of the Marshal, "By God, O Earl, you shall either go be hanged," to which Bigod answered, "By the same oath, O King, I will go nor be hanged," and immediately quitted the Court. In a short time, these Earls again refused to execute the commands of the King, in matters relating to their offices, lest they should have



fallen into his hands, upon which he expelled them both; and, as his affairs in Flanders could no longer be delayed, he prepared at once to embark for that country. As Edward was about to depart, he received a long remonstrance from the Bishops, the Earls, the Barons, and the Commonalty of the realm, on grievances then existing in the Nation, together with a statement of several violations of Magna Charta. To all the higher orders the King promised redress on his return; and to the people, who had been violently inflamed by the secret proceedings of the Earls of Norfolk and Hereford, he published a Proclamation, which stated, that for the future the Great Charter should be faithfully observed. On the 22nd of August he sailed from Winchelsea for the Continent, and left his son Edward, then thirteen years old, as Regent in his absence; who, at a Parliament which assembled in October, passed, on the behalf of his father, a Confirmation Charter, and a Pardon to several persons who had refused to attend the King into Flanders, especially to the High-Constable and the Earl-Marshal. After the conclusion of this Parliament, copies of those deeds were sent over to Edward, who, after some consideration, sealed them at Ghent, on the 5th day of November; which confimation of his son's act the still incredulous Barons required should be renewed in England. This was demanded at Carlisle about Whitsuntide in 1298, when the friends of King



Edward promised, that on his return from the Scottish expedition, in which he was then engaged, he should ratify his confirmation, and also that the decrees of the Forest Charter should be enforced, as soon as his affairs in the Romish Court which related to his dispute with Philip of France, should be brought to a conclusion. At a Parliament holden at London on the 8th of March, the first Sunday in the next Lent, King Edward again confirmed the Charters; and on the 26th of March and 2nd of April following, he issued Writs to the several Sheriffs of England, containing a recitation of nearly the whole of the Forest Charter, commanding it's particular observance, together with all the Articles of the Great Charter. To answer the doubts of the people, which still existed, Edward despatched other Writs addressed to all the Sheriffs of England, written both in the Norman French or common language, and also in the Latin, which he commanded should be published in every place of public resort, whether City, Borough, or Market-town. The purport of these Writs, which were dated on the 25th of June, was, that the King considered himself as too hardly pressed by the continual complaints of his subjects, at the same time stating that the reasons of his delay were the many and difficult affairs in which he was involved. These, he continued, would in July be brought to a close; but as it would be improper for the Perambulators to com-



mence their survey of the Forests in Harvest-time, they should meet at Northampton, at the farthest by the ensuing Michaelmas day: he also requested that the people would not believe any that maliciously reported to the contrary, in order to awaken strife between the Sovereign and the Nation. At another Parliament which sat at London on the 6th of March, the Charters were again confirmed by a new statute, entitled the "The Articles upon the Charters," hereafter printed, in the series of these instruments. After much doubt concerning the King's promise, it is supposed that the Forest Commissioners or Perambulators, met at Northampton, about Michaelmas, in the year 1299, to arrange their plans of proceedings for the next Spring. On the first of April, 1300, Edward issued Writs to each of them, commanding them to commence their journies through the Forest-Counties; and on the 10th of May, these were followed by Commissions to the Knights who had been elected in the various Shires, by others dated on May the 27th, to put in force and execute the two Charters. The Forest Commissioners concluded their perambulations for settling the boundaries of the Royal Woods, about the Summer of of the year 1300. On September the 29th, a Parliament was called to assemble at Lincoln on the 20th of January in the following year, and every person cited to appear thereat, who could offer any reason why the report of these Commissioners

should not be proceeded upon. The Perambulations were then finally examined and approved by the Parliament, having been attested by the King's Justices, the oaths of a Jury, and the evidence of the Verderers and Foresters of each Forest. After receiving a fifteenth from the Commonalty of England, the King, on the 14th of the succeeding February, confirmed the Perambulations, by which he thus fixed the future boundaries of the Forests, and at the same time issued the last Confirmation of the Charters; with the provisions, "that if any thing had been enacted contrary to their true sense and meaning, it should be remedied or even annulled, by the common consent of the Realm.[a]"

Thus, after the example of Blackstone's celebrated Introduction, although certainly with much less minuteness, have been traced the rise, fluctuating progress, and permanent conclusion of Magna Charta. Sir Edward Coke, in the Proëm to the second of his Institutes, remarks, that Magna Charta and the Charta Foresta, "have been confirmed, established, and commanded to be put into execution by thirty-two several acts of Parliament in all;" and when this is properly considered, it will be evident that it must occupy a history of no trivial extent, to shew all the circumstances and events concerning it. The centuries which have elapsed since it's execution, and the consequent oblivion into which many of the customs so early a period must have fallen,

[a] Blackst. Introd. lxxiii.

while they are sufficient arguments for the illustration of the history of the Great Charter, are at the same time almost insurmountable barriers to the performance of it. By means of an Essay even imperfect as the present, however, some idea may be formed of the manner in which the English Barons thought and acted: what circumstances opposed their progress, or what events combined to assist them; and when the Reader is possessed of only such information as this, he will with greater satisfaction turn to the modernised Copies and Translations, which occupy the following pages.



TRANSLATION OF THE ARTICLES

OF THE

Great Charter of Liberties,

UNDER THE

SEAL OF KING JOHN.

The Roman Numerals which are placed against each of the following Articles, divide them into forty-nine distinct heads, for the convenience of reference. The Arabic Figures, which are also placed at the commencement of each Article, refer to that Chapter of King John's Great Charter, in which the contents of every division are to be found. The same rule is also to be observed in the numbers of reference, from the Charter back to the original Articles.

These are the particulars of what the Barons petition, and our Lord the King grants.

I. (2).



AFTER the death of an Ancestor, the Heir of full age, shall have his inheritance by the ancient Relief, as expressed in the Charter.

II. (3). An Heir who is under age, and who is in guardianship, when he comes to age shall have his inheritance without Relief or Fine.

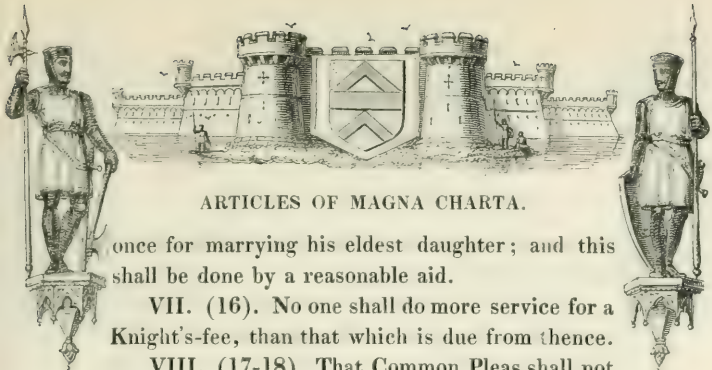
III. (4). The Keeper of an Heir's land shall take only reasonable issues, customs, and services,

without destruction or waste of the men or goods; and if the Keeper of such land shall make destruction or waste, he shall be dismissed from that gaurdianship; (5). and the Keeper shall maintain the houses, parks, fish-ponds, mills, and other things which belong to the land, or to the rents thereof: (6). and that Heirs shall be married without disparagement, so that it be by the advice of them that are nearest of kin.

IV. (7). No Widow shall give any thing for her Dower or Marriage, after the decease of her husband: but she may remain within his house for forty days after his death; and within that term they shall be assigned her, and she shall have in the same place her Dower, and her Marriage-portion, and her Inheritance.

V. (9). The King nor his Bailiffs shall not seize upon any land for debt, while there are sufficient goods of the Debtor's; nor shall the Securities of a Debtor be distressed, so long as the principal Debtor be solvent: but if the principal Debtor fail in payment, the Securities, if they be willing, shall have the lands of the Debtor until they shall be repaid; unless the principal Debtor can show himself to be acquitted thereof from the Securities.

VI. (15.) The King shall not grant to any of his Barons, that he shall take aid of his Free-men, unless it be for the redeeming of his own body, for the making of his eldest son a Knight, and



once for marrying his eldest daughter; and this shall be done by a reasonable aid.

VII. (16). No one shall do more service for a Knight's-fee, than that which is due from thence.

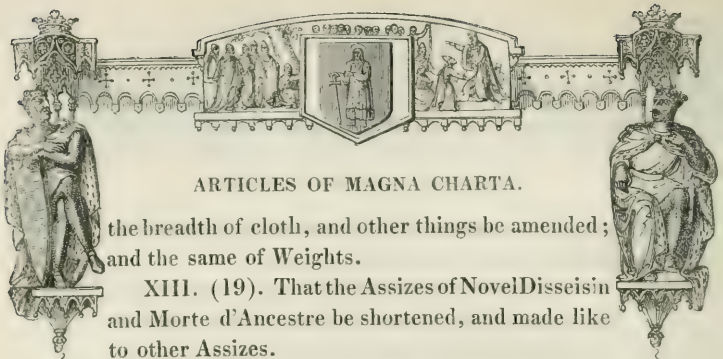
VIII. (17-18). That Common Pleas shall not follow the Court of our Lord the King, but shall be assigned to any certain place; and that recognitions shall be taken in their same Counties in this manner: that the King shall send two Justiciaries four times in the year, who, with four Knights of the same County, elected by the people thereof, shall hold Assizes of Novel Disseisin, Morte d'Ancestre, and Last Presentation; nor shall any be summoned for this, unless they be Jurors, or of the two parties.

IX. (20). That a Free-man shall be amerced for a small fault according to the degree of the fault; and for a greater crime according to it's magnitude, saving to him his Contenement; a Villain also shall be amerced in the same manner, saving his Wainage; and a Merchant in the same manner saving his Merchandise; by the oath of faithful men of the neighbourhood.

X. (22). That a Clerk shall be fined according to his Lay-fee in the manner aforesaid, and not according to his Ecclesiastical benefice.

XI. (23). No Town shall be amerced for the making of Bridges for river's banks, unless they shall of right have been anciently accustomed to do so.

XII. (35). That the Measure of Corn, Wine,



the breadth of cloth, and other things be amended; and the same of Weights.

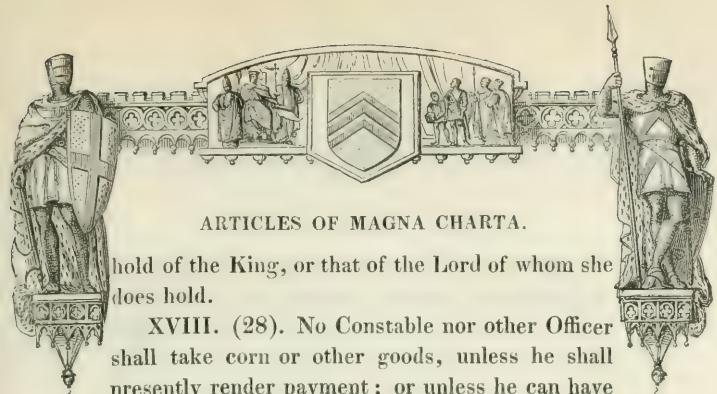
XIII. (19). That the Assizes of Novel Disseisin and Morte d'Ancestre be shortened, and made like to other Assizes.

XIV. (24). That no Sheriff shall of himself, enter into Pleas belonging to the Crown, without the Crown's authority; (25). and that Counties and Hundreds shall be at the Ancient Ferme without increase, unless they be the Manors of our Lord the King.

XV. (26). If any who hold of the King shall die, although a Sheriff or other Officer of the King shall seize and register his goods by the view of lawful men, yet nothing shall be removed until it be fully known if he owed any thing, and his debts to our Lord the King shall be cleared; then when the whole of the King's debts are paid, the remainder shall be given up to his executors, to do according to the will of the deceased; and if he should not owe any thing to the King, all the goods of the deceased shall be restored.

XVI. (27). If any Free-man shall die intestate, his goods shall be distributed by his nearest of kindred and his friends, and by the view of the Church.

XVII. (8). No Widow shall be obliged to marry while she is willing to live without an husband; so that she will give security that she will not marry without the consent of the King, if she



hold of the King, or that of the Lord of whom she does hold.

XVIII. (28). No Constable nor other Officer shall take corn or other goods, unless he shall presently render payment; or unless he can have respite by the will of the seller.

XIX. (29). No Constable can distrain any Knight to give money for Castle-guard, if he be willing to keep it in his own Person, or by any other true man, if he shall not be able to do so by any reasonable cause; and if the King shall have sent him into the Army, he shall be free from Castle-guard for that space of time.

XX. (30). No Sheriff nor Bailiff of the King nor any other, shall take horses or carts of any Free-man, for carriage, unless it be by his own will.

XXI. (31). Neither the King nor his Bailiffs shall take another man's timber for castles or for any other uses, unless it be by the will of him to whom the timber was belonging.

XXII. (23.) The King shall not hold the lands of them that have been convicted of felony, more than one year and one day, and then he shall give them up to the Lord of the fee.

XXIII. (33). That all Wears for the time to come, shall be destroyed in the Rivers of Thames and Medway, and throughout all England.

XXIV. (34). No Writ called *Precipe*, shall for the future be granted to any one of any tenement, whereby a Free-man may lose his cause.

XXV. (52). If any one have been dispossessed or deprived by the King without judgement of his lands, his liberties, or his rights, they shall immediately be restored; and if any contention should arise upon that subject, then shall it be decided by the judgement of twenty-five Barons: and that those who were disseised by the Kings our Father or our Brother, shall have right without delay according to the judgement of their Peers in the King's Courts; and if the King oweth any thing he shall have until the common term of the Crusaders, and then the Archbishop and Bishops shall cause justice to be done, and a certain day to be named for the debt being cleared.

XXVI. (36). Not any thing shall be given for a Writ of Inquisition of life or limb, but it shall be granted freely without price and not be denied.

XXVII. (37). If any hold of the King by Fee-farm, by Socage, or by Burgage, and of another by Knight's-service, our Lord the King shall not have the custody of the other's Knight's-Fee, by reason of the Socage or Burgage, nor will We hold the custody of the Burgage, Socage, or Fee-farm;—and that a Free-man shall not loose his Knight's-fee by reason of Petit-Sergeantry, such as of them that hold another tenement by giving for it knives, arrows, or the like.

XXVIII. (38). No Bailiff can put any one to his Law upon his single accusation, without sufficient witnesses.

XXIX. (39). No Free-man's body shall be taken, nor imprisoned, nor disseised, nor outlawed, nor banished, nor in any ways be damaged, nor shall the King send him to prison by force, excepting by the judgement of his Peers and by the Law of the land.

XXX. (40). No right shall be sold, delayed, or denied.

XXXI. (41). That Merchants shall have safety to go and come, buy and sell, without any evil tolls, but by ancient and honest customs.

XXXII. (12). No Scutage nor aid shall be imposed on the Kingdom, excepting by the Common Council of the Kingdom; unless it be to redeem the King's body, to make his eldest son a Knight, and once to marry his eldest daughter; and that to be a reasonable aid:—and in like manner shall it be concerning the *Taillage* and aids of the City of London; and of other Cities, which from this time shall have their liberties; and that the City of London shall fully have all it's liberties and free customs, as well by water as by land.

XXXIII. (42). That it shall be lawful for any one to go out of the Kingdom and return again, saving his allegiance to our Lord the King, unless in time of war, by some short space for the common benefit of the Kingdom.

XXXIV. (10). If any one have borrowed any thing of the Jews more or less, and shall die before they have cleared that debt, there shall be no

interest paid for that debt so long as the Heir is u der age, of whomsoever he may hold; and if the debt shall fall into the King's hands, the King shall take only the chattel, which is contained in the Charter.

XXXV. (11). If any one die indebted to the Jews, his Wife shall have her Dower, and if he shall have left children, they shall have necessaries provided for them according to his tenement, and out of the residue the debt shall be paid, saving the service of the Lords. (5). In like manner shall it be with other debts, and that guardians of land shall give to the Heir when he shall come to full age, his land stocked according to what the same can reasonably bear, and the land shall require, with ploughs and carriages.

XXXVI. (43). If any man hold of us any Escheat, such as the Honour of Wallingford, Nottingham, Bologne, or Lancaster, or of any other Escheats which are in the King's hands and are Baronies, and dies, his Heir shall not give any other Relief nor do to the King any other service than he would do to the Baron; and that the King shall hold it in the same manner as if the Baron held it.

XXXVII. (55). That Fines which are made for Dowers, the Marriages of Heirs, and unjust amerciaments against the Law of the land, shall be either entirely forgiven, or else left to be decided by the judgement of the twenty-five Barons, or by the decision of the greater part of them, with one Arch-

bishop and others whom he shall be willing to call with him: but so, that if any one or any of the twenty-five shall be concerned in the cause, they shall be removed, and others be substituted in their places by the remainder of the twenty-five.

XXXVIII. (49). That the Hostages and engagements which were given to the King as security, shall be delivered up.

XXXIX. (44). That they who dwell without the Forest shall not appear before the Justiciaries of the Forests upon a common summons, unless they are impleaded or are securities; (48). and that irregular customs of Forests and of Foresters, and Warrenners, and Sheriffs, and Keepers of Rivers, shall be amended by twelve Knights of the same Shire, who ought to be elected by true men of the same Shire.

XL. (50). That the King shall remove from his Bailiwicks the relations and all the followers of Gerard de Athyes, so that for the future they shall not hold a Bailiwick;—they are namely, Engelard, Andrew, Peter, and Gyon de Chancell, Gyon de Cygony, Matthew de Martin, and his brother, and Walter his nephew, and Philip Mark.

XLI. (51). That the King shall remove all Foreign Knights, Stipendiaries, Crossbowmen, Infringers, and Servitors who came with horses and arms to the injury of the kingdom.

XLII. (45). That the King shall make Jus-

ticiaries, Sheriffs, and Bailiffs of such as know the Law of the Land, and are disposed duly to observe it.

XLIII. (46). That Barons who have founded Abbeys, and hold them by Charters from the King, or by ancient tenure, shall have the custody of them when they shall be vacant.

XLIV. (56). If the King have disseised or dispossessed the Welsh of lands or liberties, or other things in England or in Wales, they shall immediately without plea be restored: and if they were disseised or dispossessed of their English tenements by the King's father or brother, without judgement of their Peers, he shall without delay do them justice according the manner of justice in England; —for their English tenements according to the English Law, for their Welsh tenements according to the Law of Wales, and for tenements in the Marches according to the Law of the Marches:—the same shall the Welsh do to the King and to his subjects.

XLV. (58). That the King shall give up the son of Llewellin; and moreover all the Hostages of Wales, and the engagements which they have entered into for the security of the peace.

XLVI. (59). That the King shall treat unless it ought to be otherwise by the engagements which the King hath entered into, and this shall be decided by the judgement of the Archbishop, and

with the King of Scots, on the restoring of his Hostages, and his rights and liberties, according to the same form as he shall do with the Barons of England, others, whom he shall think proper to call with him.

XLVII. (47). And all Forests which have been afforested by the King in his time, shall be disforested, and the same shall be done with rivers which have been fenced by the King himself.

XLVIII. (60). All the aforesaid customs and liberties which the King hath conceded, are to be holden in the Kingdom as much as belongs to him; therefore all his subjects of the realm, as well Ecclesiastics as Laity, shall observe them inasmuch as they are concerned, from themselves towards their dependants.

XLIX. (61). This is the form of the security for the observance of the peace and liberties between the King and the Kingdom. That the Barons may elect twenty-five Barons of the Kingdom, whom they will, who shall take care with all their might to hold and observe, and cause to be observed, the peace and liberties which our Lord the King hath conceded, and by his Charter hath confirmed; so that, namely, if the King or the Justiciaries or Bailiffs of the King, or any of his Ministers shall in any case fail in the performance of them towards any person, or shall break through these Ar-

ticles of peace and security, and the offence be notified to four Barons of the aforesaid five and twenty, they, the four Barons, shall go to our Lord the King, or to his Justiciary, if the King shall be out of the Kingdom, and laying open the grievance shall petition to have it redressed without delay; and if the King shall not amend it, or his Justiciary shall not amend it for him, if the King shall be out of the Kingdom, within a reasonable time determined upon in the aforesaid Charter,—the four Barons shall refer the case to the remainder of the twenty-five, and they, the twenty-five, with the whole community of the land, shall distrain and distress the King by all the means which they can; that is to say by taking his Castles, Lands, Possessions, and in every other manner which they can, until amendment shall be made according to their decision, saving the persons of the King and Queen and of their children, and when the grievance shall be redressed, they shall obey our Lord the King as before: and whosoever of the Kingdom is willing, may swear to obey the orders of the aforesaid five and twenty Barons, and harrass the King with them to the extent of his power, and the King shall give public and free leave to any to swear to them that are willing to swear; and he shall not prohibit any from swearing: also, all those of the land who of themselves and of their own accord will not swear to join with the five and twenty Barons, to distrain and distress the King, the King shall make them

swear to the same such as is aforesaid, by his command. Also, if any of the aforesaid five and twenty Barons shall die or remove from the land or by any other way be prevented from putting the things aforesaid into execution, the five and twenty may elect another in his place, by their own decision, who shall be sworn in a similar way with the rest. Also in all things that are committed to the charge of these five and twenty Barons, if when they be all assembled, and between themselves they should disagree upon any thing, or some of them when called cannot or will not come, whatever be agreed upon by the greater part, shall be as firm and valid as if all the five and twenty had given their consent; and the aforesaid five and twenty shall swear, that all the aforesaid they will faithfully observe, and will cause to be observed, with their whole power. (63). Moreover the King shall make them secure by the engagements of the Archbishops and Bishops, and of Master Pandulph, that he will not procure from our Lord the Pope, any thing by which any part of this Covenant shall be revoked or lessened, and if any such thing be obtained, let it be considered as null and void.



MAGNA CHARTA,

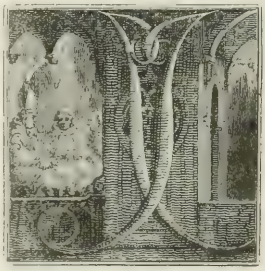
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Charta de Libertatibus Regis Johannis

Concessus Die Junii Quinto Decimo, A.D. 1215,

IN ANNO REGNI SEPTIMO DECIMO.

IN ARCHIVIS ECCLESIÆ CATHEDRALIS LINCOLNIENSIS ASSERVATA.



OHANNES Dei Gratia, Rex Angliæ, Dominus Hiberniæ, Dux Normanniæ et Aquitaniæ, Comes Andegaviæ, Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Forestariis, Vicecomitibus, Præpositis, Ministris, et omnibus Ballivis, et fidelibus suis,—Salutem. Sciatis Nos, intuitu Dei, et pro salute animæ nostræ, et omnium antecessorum, et hæredum nostrorum, ad honorem Dei, et exaltationem Sanctæ Ecclesiæ, et emendationem Regni nostri, per consilium venerabilium patrum nostrorum Stephani Cantuariensis Archiepiscopi, Totius Angliæ Primatis et Sanctæ Romanæ Ecclesiæ Cardinalis;

MAGNA CHARTA,

OR

The Great Charter of King John,

Granted June 15th, A.D. 1215,

IN THE SEVENTEENTH YEAR OF HIS REIGN.

TRANSLATED FROM THE ORIGINAL PRESERVED IN THE ARCHIVES OF LINCOLN CATHEDRAL.



OHN, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to his Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, and to all Bailiffs, and his faithful subjects,—Greeting. Know ye, that We, in the presence of God, and for the salvation of our own soul, and of the souls of all our ancestors, and of our heirs, to the honour of God, and the exaltation of the Holy Church and amendment of our Kingdom, by the counsel of our venerable fathers, Stephen Archbishop of Canterbury, Primate of all England, and Cardinal of the Holy Roman Church,

Henrici Dubliniensis Archiepiscopi, Willielmi Londoniensis, Petri Wintoniensis, Joscelini Bathoniensis et Glastoniensis, Hugonis Lincolniensis, Walteri Wigorniensis, Willielmi Coventrensis, et Benedicti Roffensis, Episcoporum; Magistri Pandulfi Domini Papæ Subdiaconi et familiaris, Fratris Eimerici, Magistri Militiæ Templi in Anglia, et nobilium virorum Willielmi Marescalli Comitis Pembrochiæ, Willielmi Comitis Sarisburiæ, Willielmi Comitis Warreniæ, Willielmi Comitis Arundelliæ, Alani de Galweia Constabularii Scotiæ, Warini filii Geroldi, Huberti de Burgo Senescalli Pictaviæ, Petri filii Hereberti, Hugonis de Nevillæ, Matthei filii Hereberti, Thomæ Basset, Alani Basset, Philippi de Albiniaco, Roberti de Roppelay, Johannis Marescalli, Johannis filii Hugonis, et aliorum fidelium nostrorum; In primis concessisse Deo, et hac presenti Charta nostra confirmasse pro nobis et hæredibus nostris in perpetuum:—(I.) quod Anglicana Ecclesia libera sit, et habeat jura sua integra et libertates suas illæsas, et ita volumus observari, quod apparet ex eo quod libertatem electionum, que maxima, et magis necessaria reputatur Ecclesiæ Anglicanæ, mera et spontanea voluntate, ante discordiam inter nos et Barones nostros motam, concessimus, et charta nostra confirmavimus, et eam obtinuimus a Domini Papa Innocentio Tertio confirmari: quam et nos observavimus, et ab hæredibus nostris in perpetuum bona fide volumus observari. Concessimus etiam omnibus

Henry Archbishop of Dublin, William of London, Peter of Winchester, Joceline of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, Bishops; Master Pandulph our Lord the Pope's Subdeacon and familiar, Brother Almeric, Master of the Knights-Templars in England, and of these noble persons, William Mareschal Earl of Pembroke, William Earl of Salisbury, William Earl of Warren, William Earl of Arundel, Alan de Galloway Constable of Scotland, Warin Fitz-Gerald, Hubert de Burgh Seneschal of Poictou, Peter Fitz-Herbert, Hugh de Nevil, Matthew Fitz-Herbert, Thomas Basset, Alan Basset, Philip de Albiniac, Robert de Roppel, John Mareschal, John Fitz-Hugh, and others our liegemen; have in the First place granted to God, and by this our present Charter, have confirmed, for us and our heirs for ever:—(I.) That the English Church shall be free, and shall have her whole rights and her liberties inviolable; and we will this to be observed in such a manner, that it may appear from thence, that the freedom of elections, which was reputed most requisite to the English Church, which we granted, and by our Charter confirmed, and obtained the Confirmation of the same, from our Lord Pope Innocent the Third, before the rupture between us and our Barons, was of our own free will: which Charter we shall observe, and we will it to be observed with good faith, by our heirs for ever.—(II.) We have also granted to all

liberis hominibus regni nostri, pro nobis et hæredibus nostris in perpetuum, omnes libertates subscriptas, habendas et tenandas eis et hæredibus suis de nobis et hæredibus nostris.—(II. 1.) Si quis Comitum vel Baronum nostrorum, sive aliorum tenentium de nobis in capite per servitium militare, mortuus fuerit, et cum decesserit hæres suus plene ætatis fuerit, et relevium debeat, habeat hæreditatem suam per antiquum relevium; scilicet, hæres vel hæredes Comitis, de Baronia Comitis integra, per centum libras: hæres vel hæredes Baronis, de Baronia integra, per centum libras: hæres vel hæredes Militis, de Feodo Militis integro, per centum solidos, ad plus: et qui minus debuerit, minus det, secundum antiquam consuetudinem feodorum.—(III. 2.) Si autem hæres alicujus talium fuerit infra ætatem, et fuerit in custodia, cum ad ætatem pervenerit, habeat hæreditatem suam sine relevio et sine fine.—(IV. 3.) Custos terræ hujusmodi hæredis qui infra ætatem fuerit, non capiat de terra hæredis nisi rationabiles exitus, et rationabiles consuetudines, et rationabilia servitia, et hoc sine destructione et vasto hominum vel rerum. Et si nos commiserimus custodiam alicujus talis terræ Vicecomiti, vel alicui alii qui de exitibus illius nobis respondere debeat, et ille destructionem de custodia fecerit vel vastum, nos ab illo capiemus emendam, et terra committatur duobus legalibus et discretis hominibus de feodo illo, qui de exitibus respondeant nobis, vel ei cui eos

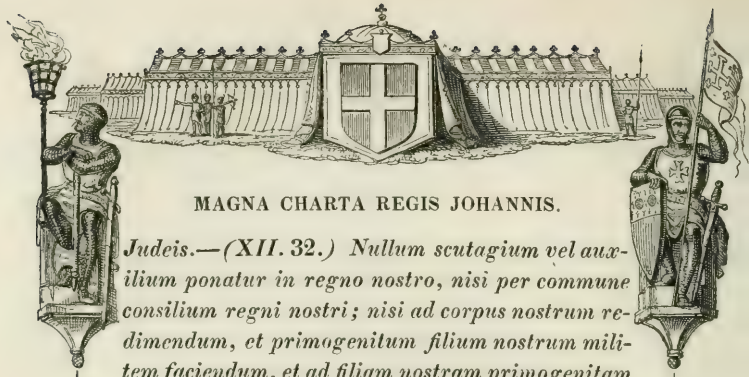
the Freemen of our Kingdom, for us and our heirs for ever, all the underwritten Liberties, to be enjoyed and held by them and by their heirs, from us and from our heirs.—(II. 1.) If any of our Earls or Barons, or others who hold of us in chief by military service, shall die, and at his death his heir shall be of full age, and shall owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, a whole Earl's Barony for one hundred pounds: the heir or heirs of a Baron for a whole Barony, by one hundred pounds; the heir or heirs of a Knight, for a whole Knight's Fee, by one hundred shillings at most: and he who owes less, shall give less, according to the ancient custom of fees.—(III. 2.) But if the heir of any such be under age, and in wardship, when he comes to age he shall have his inheritance without relief and without fine.—(IV. 3.) The warden of the land of such heir who shall be under age, shall not take from the lands of the heir any but reasonable issues, and reasonable customs, and reasonable services, and that without destruction and waste of the men or goods, and if we commit the custody of any such lands to a Sheriff, or any other person who is bound to us for the issues of them, and he shall make destruction or waste upon the ward-lands we will recover damages from him, and the lands shall be committed to two lawful and discreet men of that fee, who shall answer for the issues to us, or to him to whom we

assignaverimus. Et si dederimus vel vendiderimus alicui custodiam alicujus talis terræ, et ille destructionem inde fecerit vel vastum, amittat ipsam custodiam; et tradatur duobus legalibus et discretis hominibus de feodo illo, qui similiter respondeant nobis sicut prædictum est.—(V.) Custos autem, quamdiu custodiam terræ habuerit, sustinet domos, parcos, vivaria, stagna, molendina, et cætera, ad terram illam pertinentia, de exitibus terræ ejusdem, (35.) et reddat hæredi cum ad plenam ætatem pervenerit, terram suam totam, instauratam de carrucis et waignigiis, secundum quod tempus waignigii exiget, et exitus terræ rationabiliter poterunt sustinere.—(VI. 3.) Hæredes maritentur absque disparagatione, ita quod antequam contrahatur matrimonium, ostendatur propinquis de consanguinitate ipsius hæredis.—(VII. 4.) Vidua, post mortem mariti, sui statim et sine difficultate, habeat maritagium et hæreditatem suam; nec aliquid det pro dote sua, vel pro maritagio suo, vel hæreditate sua, quam hæreditatem maritus suus et ipsa tenuerint die obitus ipsius mariti; et maneat in domo mariti sui per quadraginta dies post mortem ipsius, infra quos assignetur ei dos sua.—(VIII. 17.) Nulla vidua distringatur ad se maritandum dum voluerit vivere sine marito; ita tamen quod securitatem faciat quod se non maritabit, sine assensu nostro de nobis tenuerit, vel

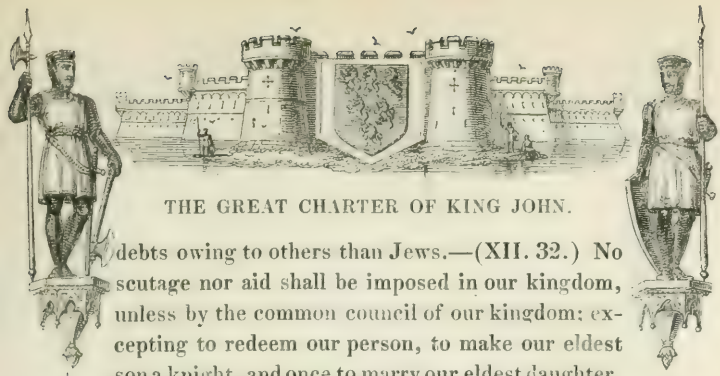
have assigned them. And if we shall give or sell to any one the custody of any such lands, and he shall make destruction or waste upon them, he shall lose the custody; and it shall be committed to two lawful and discreet men of that fee, who shall answer to us in like manner as it is said before.—(V.) But the warden, as long as he hath the custody of the lands, shall keep up and maintain the houses, parks, warrens, ponds, mills, and other things belonging to them, out of their issues; (35.) and shall restore to the heir when he comes of full age, his whole estate, provided with ploughs and other implements of husbandry, according as the time of Wainage shall require, and the issues of the lands can reasonably afford.—(VI. 3.) Heirs shall be married without disparagement, so that before the marriage be contracted, it shall be notified to the relations of the heir by consanguinity.—(VII. 4.) A widow, after the death of her husband, shall immediately, and without difficulty have her marriage and her inheritance; nor shall she give any thing for her dower, or for her marriage, or for her inheritance, which her husband and she held at the day of his death: and she may remain in her husband's house forty days after his death, within which time her dower shall be assigned.—(VIII. 17.) No widow shall be distrained to marry herself, while she is willing to live without a husband; but yet she shall give security that she will not marry herself without our consent, if she hold of us, or

sine assensu domini sui de quo tenuerit, si de alio tenuerit.—(IX. 5.) Nec nos nec Ballivi nostri, saisiemus terram aliquam nec redditum pro debito aliquo, quamdiu catalla debitoris sufficiunt ad debitum reddendum; nec plegii ipsius debitoris distringantur, quamdiu ipse capitalis debitor sufficit ad solutionem debiti; et si capitalis debitor defecerit in solutione debiti, non habens unde solvat, plegii respondeant de debito, et si voluerint, habeant terras et redditus debitoris, donec sit eis satisfactum de debito quod ante pro eo solverint, nisi capitalis debitor monstraverit se esse quietum inde versus eosdem plegios. —(X. 34.) Si quis mutuo cæperit aliquid a Judeis, plus vel minus, et moriatur antequam debitum illud solvatur, debitum non usuret quamdiu hæres fuerit infra ætatem de quocumque teneat; et si debitum illud inciderit in manus nostras, nos non capiemus nisi catallum contentum in charta.—(XI. 35.) Et si quis moriatur et debitum debeat Judeis, uxor ejus habeat dotem suam, et nihil reddat de debito illo; et si liberi ipsius defuncti qui fuerint infra ætatem, remanserint, provideantur eis necessaria secundum tenementum quod fuerit defuncti, et de residuo solvatur debitum, salvo servitio dominorum. Simili modo fiat de debitis que debentur aliis quam

without the consent of the lord of whom she does hold, if she hold of another.—(IX. 5.) Neither we nor our Bailiffs, will seize any land or rent for any debt, while the chattels of the debtor are sufficient for the payment of the debt; nor shall the sureties of the debtor be distrained, while the principal debtor is able to pay the debt; and if the principal debtor fail in payment of the debt, not having wherewith to discharge it, the sureties shall answer for the debt; and if they be willing, they shall have the lands and rents of the debtor, until satisfaction be made to them for the debt which they had before paid for him, unless the principal debtor can shew himself acquitted thereof against the said sureties.—(X. 34.) If any one hath borrowed any thing from the Jews, more or less, and die before that debt be paid, the debt shall pay no interest so long as the heir shall be under age, of whomsoever he may hold; and if that debt shall fall into our hands, we will not take any thing except the chattel contained in the bond.—(XI. 35.) And if any one shall die indebted to the Jews, his wife shall have her dower and shall pay nothing of that debt; and if children of the deceased shall remain who are under age, necessaries shall be provided for them, according to the tenement which belonged to the deceased: and out of the residue the debt shall be paid, saving the rights of the lords *(of whom the lands are held.)* In like manner let it be with



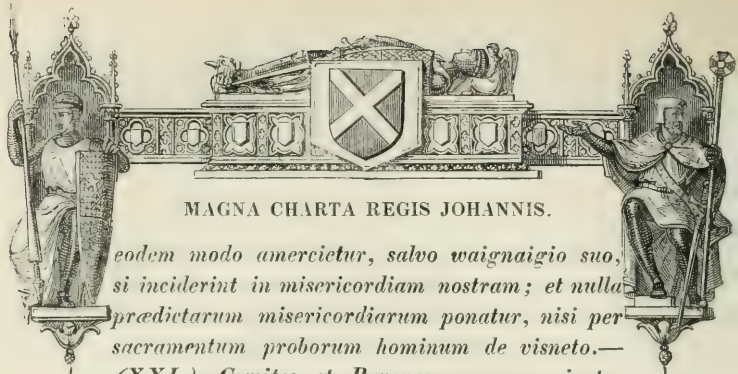
Judeis.—(XII. 32.) Nullum scutagium vel auxilium ponatur in regno nostro, nisi per commune consilium regni nostri; nisi ad corpus nostrum redimendum, et primogenitum filium nostrum militem faciendum, et ad filiam nostram primogenitam semel maritandam; et ad hæc non fiat nisi rationabile auxilium.—(XIII.) Simili modo fiat de auxiliis de civitate Londonii. Et Civitas Londonii habeat omnes antiquas libertates, et liberas consuetudines suas, tam per terras quam per aquas. Prætera volumus et concedimus quod omnes aliæ Civitates, et Burgi, et Villæ, et Portus, habeant omnes libertates et liberas consuetudines suas.—(XIV.) Et ad habendum commune consilium regni, de auxilio assidendo, aliter quam in tribus casibus prædictis, vel de Scutagio assidendo, summoneri faciemus Archiepiscopos, Episcopos, Abbates, Comites, et majores Barones, sigillatim, per literas nostras. Et præterea, faciemus summoneri in generali per Vicecomites et Ballivos nostros, omnes illos qui de nobis tenent in capite, ad certum diem, scilicet, ad terminum quadraginta dierum, ad minus, et ad certum locum; et in omnibus literis illius summonitionis causam summonitionis exprimemus; et sic facta summonitione, negotium ad diem assignatum procedat, secundum consilium illorum qui presentes fuerint, quamvis non omnes summoniti venerint.—(XV. 6.) Nos non concedemus de cætero, alicui, quod capiat auxilium de



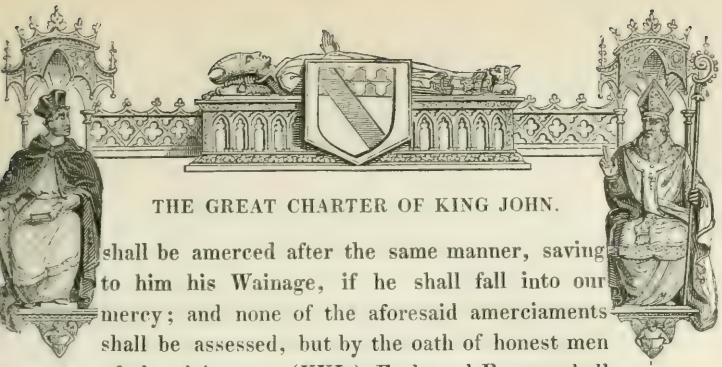
debts owing to others than Jews.—(XII. 32.) No scutage nor aid shall be imposed in our kingdom, unless by the common council of our kingdom: excepting to redeem our person, to make our eldest son a knight, and once to marry our eldest daughter, and not for these, unless a reasonable aid shall be demanded.—(XIII.) In like manner let it be concerning the aids of the City of London.—And the City of London should have all it's ancient liberties, and it's free customs, as well by land as by water. —Furthermore, we will and grant that all other Cities, and Burghs, and Towns, and Ports, should have all their liberties and free customs.—(XIV.) And also to have the common council of the kingdom, to assess and aid, otherwise than in the three cases aforesaid: and for the assessing of scutages, we will cause to be summoned the Archbishops, Bishops, Abbots, Earls, and great Barons, individually, by our letters.—And besides, we will cause to be summoned in general by our Sheriffs and Bailiffs, all those who hold of us in chief, at a certain day, that is to say at the distance of forty days, (*before their meeting*,) at the least, and to a certain place; and in all the letters of summons, we will express the cause of the summons: and the summons being thus made, the business shall proceed on the day appointed, according to the counsel of those who shall be present, although all who had been summoned have not come.—(XV. 6.) We will not give leave to any one, for the future, to take an aid of

liberis hominibus suis, nisi ad corpus suum redimendum, et ad faciendum primogenitum filium suum militem, et ad primogenitam filiam suam semel maritandam; et ad hæc non fiat nisi rationabile auxilium. — (XVI. 7.) Nullus distringatur ad faciendum majus servitium de Feodo Militis, nec de alio libero tenemento, quam inde debetur.—(XVII. 8.) Communia placita non sequantur curiam nostram, sed teneantur in aliquo certo loco. — (XVIII.) Recognitiones de Nova Dissaisina, de Morte Antecessoris, et de Ultima Presentatione, non capiantur nisi in suis comitatibus, et hoc modo:—Nos, vel si extra regnum fuerimus, Capitalis Justiciarius noster, mittemus duos Justiciarios per unumquemque comitatum per quatuor vices in anno, qui, cum quatuor militibus cujuslibet comitatus, electis per comitatum, capiant in comitatu, et in die et loco comitatus, assisas prædictas.—(XIX. 13.) Et si in die comitatus assisæ prædicte capi non possint, tot milites et liberæ tenentes remaneant de illis qui interfuerint comitatui die illo, per quos possint sufficienter judicia fieri, secundum quod negotium fuerit majus vel minus.—(XX. 9.) Liber homo non amercietur pro parvo delicto, nisi secundum modum delicti; et pro magno delicto, amercietur secundum magnitudinem delicti, salvo contenemento suo, et Mercator eodem modo, salva mercandisa sua, et villainus

his own free-men, except for redeeming his own body, and for making his eldest son a knight, and for marrying once his eldest daughter; and not that unless it be a reasonable aid.—(XVI.7.) None shall be distrained to do more service for a Knight's-Fee, nor for any other free tenement, than what is due from thence.—(XVII. 8.) Common Pleas shall not follow our court, but shall be held in any certain place.—(XVIII.) Trials upon the Writs of *Novel Disseisin*, of *Mort d'Ancestre* (death of the ancestor), and *Darrien Presentment* (last presentation), shall not be taken but in their proper counties, and in this manner:—We, or our Chief Justiciary, if we are out of the kingdom, will send two Justiciaries into each county, four times in the year, who, with four knights of each county, chosen by the county, shall hold the aforesaid assizes, within the county on the day, and at the place appointed.—(XIX. 13.) And if the aforesaid assizes cannot be taken on the day of the county-court, let as many knights and freeholders, of those who were present at the county-court remain behind, as shall be sufficient to do justice, according to the great or less importance of the business.—(XX. 9.) A free-man shall not be amerced for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his contenement: a Merchant shall be amerced in the same manner, saving his merchandise, and a villain



eodem modo amercietur, salvo waignaigio suo, si inciderint in misericordiam nostram; et nulla prædictarum misericordiarum ponatur, nisi per sacramentum proborum hominum de visneto.—(XXI.) Comites et Barones non amercientur nisi per Pares suos, et non nisi secundum modum delicti.—(XXII. 10.*) Nullus Clericus amercietur de laico tenemento suo, nisi secundum modum aliorum prædictorum, et non secundum quantitatem beneficii sui ecclesiastici.—(XXIII.* 11.*) Nec villa nec homo distringatur facere pontes ad riparias, nisi qui ab antiquo, et de jure, facere debent.—(XXIV.* 14.*) Nullus Vicecomes, Constabularius, Coronatores, vel alii Ballivi nostri, teneant placita coronæ nostræ.—(XXV.) Omnes Comitatus et Hundredi, Trethingii, et Wapentachii, sint ad antiquas firmas, absque ullo incremento, exceptis Dominicis maneriis nostris.—(XXVI.* 15.*) Si aliquis tenens de nobis laicum feodum moriatur, et Vicecomes vel Ballivus noster, ostendat literas nostras patentes de summonitione nostra de debito quod defunctus nobis debuit, liceat Vicecomiti vel Ballivo nostro attachiare et inbreviare catalla defuncti inventa in laico feodo, ad valentiam illius debiti, per visum legalium hominum, ita tamen quod nihil inde amoveatur, donec persolvatur nobis debitum quod clarum fuit; et residuum relinquatur executoribus ad faciendum testamentum*



shall be amerced after the same manner, saving to him his Wainage, if he shall fall into our mercy; and none of the aforesaid amerciaments shall be assessed, but by the oath of honest men of the vicinage.—(XXI.) Earls and Barons shall not be amerced but by their Peers, and that only according to the degree of their delinquency.—(XXII. 10.) No Clerk shall be amerced for his lay-tenement, but according to the manner of the others as aforesaid, and not according to the quantity of his ecclesiastical benefice.—(XXIII. 11.) Neither a town nor any person shall be distrained to build bridges or embankments, excepting those which anciently, and of right, are bound to do it.—(XXIV. 14.) No Sheriff, Constable, Coroners, nor other of our Bailiffs, shall hold pleas of our crown.—(XXV.) All Counties, and Hundreds, Trethings, and Wapontakes, shall be at the ancient rent, without any increase, excepting in our Demesne-manors.—(XXVI. 15.) If any one holding of us a lay-fee dies, and the Sheriff or our Bailiff, shall shew our letters-patent of summons concerning the debt which the defunct owed to us, it shall be lawful for the Sheriff or our Bailiff to attach and register the chattels of the defunct found on that lay-fee, to the amount of that debt, by the view of lawful men, so that nothing shall be removed from thence until our debt be paid to us; and the rest shall be left to the executors to fulfil the will of the

defuncti et si nihil nobis debeatur ab ipso, omnia catalla cedant defuncto, salvis uxore ipsius et pueris rationabilibus partibus suis.— (XXVII. 16.*) Si aliquis liber homo intestatus decesserit, catalla sua per manus propinquorum parentum et amicorum suorum, per visum Ecclesiæ distribuantur; salvis unicuique debitis quæ defunctis ei debebat. —(XXVIII.* 18.*) Nullus Constabularius vel alius Ballivus noster, capiat blada vel alia catalla alicujus, nisi statim inde reddat denarios, aut respectum inde habere possit de voluntate venditoris.—(XXIX.* 19.*) Nullus Constabularius distringat aliquem Militem ad dandum denarios pro custodia castri, si facere voluerit custodiam illam in propria persona sua, vel per alium probum hominem, si ipse eam facere non possit propter rationabilem causam: et si nos duxerimus vel miserimus eum in exercitu, erit quietus de custodia secundum quantitatem temporis quo, per nos, fuerit in exercitu.— (XXX.* 20.*) Nullus Vicecomes vel Ballivus noster, vel aliquis alius, capiat equos vel carettas alicujus liberi hominis pro carragio faciendo, nisi de voluntate ipsius liberi hominis.—(XXXI.* 21.) *Nec nos, nec Ballivi nostri, capiemus alienum boscum ad castra vel alia agenda nostra, nisi per voluntatem ipsius cujus boscus ille fuerit.—(XXXII.* 22.*) Nos non tenebimus terras illorum qui convicti fuerint de felonia, nisi per unum annum et unum diem; et tunc reddantur terræ dominis feodorum.—(XXXIII.* 23.*)*

defunct; and if nothing be owing to us by him, all the chattels shall fall to the defunct, saving to his wife and children their reasonable shares.—(XXVII. 16.) If any free-man shall die intestate, his chattels shall be distributed by the hands of his nearest relations and friends, by the view of the Church, saving to every one the debts which the defunct owed.—(XXVIII. 18.) No Constable nor other Bailiff of ours shall take the corn or other goods of any one, without instantly paying money for them, unless he can obtain respite from the free will of the seller.—(XXIX. 19.) No Constable *(Governor of a Castle)* shall distrain any Knight to give money for castle-guard, if he be willing to perform it in his own person, or by another able man, if he cannot perform it himself, for a reasonable cause: and if we have carried or sent him into the army, he shall be excused from castle-guard, according to the time that he shall be in the army by our command.—(XXX. 20.) No Sheriff nor Bailiff of ours, nor any other person shall take the horses or carts of any free-man, for the purpose of carriage, without the consent of the said free-man.—XXXI. 21.) Neither we, nor our Bailiffs, will take another man's wood, for our castles or other uses, unless by the consent of him to whom the wood belongs.—(XXXII. 22.) We will not retain the lands of those who have been convicted of felony, excepting for one year and one day, and then they shall be given up to the lord of the fee.—(XXXIII. 23.)

Omnes Kidelli de cætero deponantur penitus de Thamesia et de Medeway, et per totam Angliam, nisi per costeram maris. — (XXXIV. 24.*)* *Breve quod vocatur Præcipe, de cætero non fiat alicui de aliquo tenemento, unde liber homo possit amittere curiam suam.—(XXXV.* 12.*)* *Una mensura vini sit per totum regnum nostrum, et una mensura cervisiæ, et una mensura bladi, scilicet quartarium Londonii; et una latitudo pannorum tinctorum, et russettorum, et halbergettorum, scilicet, duæ ulnæ infra listas. De ponderibus autem sit ut de mensuris.—(XXXVI.* 26.*)* *Nihil detur vel capiatur de cætero pro Brevi Inquisitionis de vita vel membris; set gratis concedatur et non negatur.—(XXXVII.* 27.*)* *Si aliquis teneat de nobis per Feodi-Firmam, vel per Socagium, vel per Burgagium; et de alio terram teneat per Servitium Militare, nos non habebimus custodiam hæredis nec terræ suæ est de feodo alterius, occasione illius Feodi-Firmæ, vel Socagii, vel Burgagii; nec habebimus custodiam illius Feodi-Firmæ, vel Socagii, vel Burgagii, nisi ipsi Feodi-Firma debeat Servitium Militare. Nos non habebimus custodiam hæredis vel terræ alicujus, quam tenet de alio per Servitium Militare, occasione Parve Serjanterie quam tenet de nobis per servitium reddendi nobis cultellos, vel sagittas, vel hujusmodi. —(XXXVIII.* 28.*)* *Nullus Ballivus ponat de cætero aliquem ad legem, simplici loquela sua, sine testibus fidelibus ad hoc inductis.—(XXXIX.*

All kydells (*wears*) for the future shall be quite removed out of the Thames, and the Medway, and through all England, excepting upon the sea-coast.--(XXXIV. 24.) The writ which is called *Præcipe*, for the future shall not be granted to any one of any tenement, by which a free-man may lose his court.—(XXXV. 12.) There shall be one measure of wine throughout all our kingdom, and one measure of ale, and one measure of corn, namely the quarter of London; and one breadth of dyed cloth, and of russets, and of halberjects, namely, two ells within the lists. Also it shall be the same with weights as with measures.—(XXXVI. 26.) Nothing shall be given or taken for the future for the Writ of Inquisition of life or limb; but it shall be given without charge, and not denied.—(XXXVII. 27.) If any hold of us by Fee-Farm, or Socage, or Burgage, and hold land of another by Military Service, we will not have the custody of the heir, nor of his lands, which are of the fee of another, on account of that Fee-Farm, or Socage, or Burgage; nor will we have the custody of the Fee-Farm, Socage, or Burgage, unless the Fee-Farm owe Military Service. We will not have the custody of the heir, nor of the lands of any one, which he holds of another by Military Service, on account of any Petty-Sergeantry which he holds of us by the service of giving us daggers, or arrows, or the like.—(XXXVIII. 28.) No Bailiff, for the future, shall put any man to his law, upon his own simple affirmation, without credible witnesses produced for that purpose. (XXXIX.

29.) *Nullus liber homo capiatur, vel imprisonetur, aut dissaisiatur, aut utlagetur, aut exuletur, aut aliquo modo destruatur; nec super eum ibimus, nec super eum mittemus, nisi per legale judicium parium suorum, vel per legem terræ.* —(XL. 30.) *Nulli vendemus, nulli negabimus, aut differimus, rectum aut justitiam.*—(XLI. 31.) *Omnes Mercatores habeant salvum et securum exire ab Anglia, et venire in Angliam, morari et ire per Angliam, tam per terram quam per aquam, ad emendum et vendendum, sine omnibus malis tollis, per antiquas et rectas consuetudines; præterquam in tempore guerræ, et si sint de terra contra nos guerrina: et si tales inveniantur in terra nostra in principio guerræ, attachientur sine dampno corporum et rerum, donec sciatur a nobis, vel Capitali Justiciario nostro, quomodo Mercatores terræ nostræ tractentur, qui tunc invenientur in terra contra nos guerrina; et si nostri salvi sint ibi, alii salvi sint in terra nostra* —(XLII. 33.) *Liceat unicuique de cætero, exire de regno nostro, et redire salvo et secure per terram et per aquam, salva fide nostra, nisi tempore guerræ, per aliquod breve tempus, propter communem utilitatem regni: exceptis inprisonatis et utlagatis, secundum legem regni; et gentæ de terra contra nos guerrina, et Mercatoribus de quibus fiat sicut prædictum est.* —(XLIII. 36.) *Si quis tenuerit de aliqua escaeta, sicut de Honore de Wallingeford; Not-*

29.) No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.—(XL. 30.) To none will we sell, to none will we deny, to none will we delay right or justice.—(XLI. 31.) All Merchants shall have safety and security in coming into England, and going out of England, and in staying and in travelling through England, as well by land as by water, to buy and sell, without any unjust exactions, according to ancient and right customs, excepting in the time of war, and if they be of a country at war against us: and if such are found in our land at the beginning of a war, they shall be apprehended without injury of their bodies and goods, until it be known to us, or to our Chief Justiciary, how the Merchants of our country are treated who are found in the country at war against us; and if ours be in safety there, the others shall be in safety in our land.—(XLII. 33.) It shall be lawful to any person, for the future, to go out of our kingdom, and to return, safely and securely, by land or by water, saving his allegiance to us, unless it be in time of war, for some short space, for the common good of the kingdom: excepting prisoners and outlaws, according to the laws of the land, and of the people of the nation at war against us, and Merchants who shall be treated as it is said above.—(XLIII. 36.) If any hold of any escheat, as of the Honour of Wallingford, Not-

ingehamiæ, Bononii, Lancastriæ, vel de aliis escaetis quæ sunt in manu nostra, et sunt Baroniæ, et obierit, hæres ejus non det aliud relevium, nec faciat aliud nobis servitium quam faceret Baroni, si Baronia illa esset in manu Baronis; et nos eodem modo eam tenebimus quo Baro eam tenuit. —(XLIV. 39.*) Homines qui manent extra forestam, non veniant, de cætero, coram Justiciariis nostris de Foresta, per communes summonitiones; nisi sint in placito, vel plegii alicujus, vel aliquorum qui attachiati sint pro Foresta.—(XLV.* 42.*) Nos non faciemus Justiciarios, Constabularios, Vicecomites, vel Ballivos, nisi de talibus qui sciant legem regni, et eam bene velint observare.—(XLVI.* 43.*) Omnes Barones qui fundaverunt Abbatias, unde habent cartas Regum Angliæ, vel antiquam tenuram, habeant earum custodiam cum vacaverint, sicut habere debent.—(XLVII.* 47.*) Omnes Forestæ quæ afforestate sunt tempore nostro, statim deafforestentur; et ita fiat de Ripariis quæ per nos tempore nostro posite sunt in defenso. —(XLVIII.* 39.*) Omnes malæ consuetudines de Forestis et Warrennis, et de Forestariis et Warrennariis, Vicecomitibus et eorum ministris, Ripariis et earum custotibus, statim inquirantur in quolibet comitatu, per duodecim Milites juratos de eodem comitatu, qui debent eligi per probos homines ejusdem comitatus, et infra quadraginta dies post inquisitionem factam, penitus, ita quod nunquam revocentur, deleantur per eosdem,*

tingham, Boulogne, Lancaster, or of other escheats which are in our hand, and are Baronies, and shall die, his heir shall not give any other relief, nor do any other service to us, than he should have done to the Baron, if that Barony had been in the hands of the Baron; and we will hold it in the same manner that the Baron held it.—(XLIV. 39.) Men who dwell without the Forest, shall not come, for the future, before our Justiciaries of the Forest on a common summons; unless they be parties in a plea, or sureties for some person or persons who are attached for the Forest.—(XLV. 42.) We will not make Justiciaries, Constables, Sheriffs, or Bailiffs, excepting of such as know the laws of the land, and are well disposed to observe them.—(XLVI. 43.) All Barons who have founded Abbies, which they hold by charters from the Kings of England, or by ancient tenure, shall have the custody of them when they become vacant, as they ought to have.—(XLVII. 47.) All Forests which have been made in our time, shall be immediately disforested; and it shall be so done with Water-banks, which have been taken or fenced in by us during our reign.—(XLVIII. 39.) All evil customs of Forests and Warrens, and of Foresters and Warreners, Sheriffs and their officers, Water-banks and their keepers, shall immediately be inquired into by twelve Knights of the same county, upon oath, who shall be elected by good men of the same county; and within forty days after the inquisition is made, they shall be altogether destroyed by them

ita quod nos hoc prius sciamus vel Justiciarius noster, si in Anglia non fuerimus.—(XLIX. 38.) Omnes obsides et cartas statim reddemus quæ liberate fuerunt nobis ab Anglicis in securitatem pacis, vel fidelis servitii.—(L. 40.) Nos amovebimus penitus de balliis parentes Gerardi de Atyes, quod de cætero nullam habeant ballium in Anglia; Engelardum de Cygonii, Andream, Petrum, et Gyonem de Cancelli, Gyonem de Cygonii, Galfridum de Martini, et fratres ejus, Philippum Marci, et fratres ejus, et Galfridum nepotem ejus, et totam sequelam eorumdem.—(LI. 41.) Et statim post pacis reformationem, amovebimus de regno omnes alienigenas milites, balistarios, servientes stipendarios, qui venerint cum equis et armis ad nocumentum regni.—(LII. 25.) Si quis fuerit dissaisitus vel elongatus per nos, sine legali judicio parium suorum, de terris castallis, libertatibus, vel jure suo, statim ea ei restituemus; et si contentio super hoc orta fuerit, tunc inde fiat per judicium viginti quinque Baronum, de quibus fit mentio inferius in securitate pacis. De omnibus autem illis de quibus aliquis dissaisitus fuerit, vel elongatus, sine legali judicio parium suorum, per Henricum Regem patrem nostrum, vel per Richardum Regem fratrem nostrum, quæ in manu nostra habemus, vel quæ alii tenent quæ nos oporteat warantizare,

never to be restored; provided that this be notified to us before it be done, or to our Justiciary, if we be not in England.—(XLIX. 38.) We will immediately restore all hostages and charters, which have been delivered to us by the English, in security of the peace and of their faithful service.—(L. 40.) We will remove from their bailiwicks the relations of Gerard de Athyes, so that, for the future, they shall have no bailiwick in England; Engelard de Cygony, Andrew, Peter, and Gyone de Chancell, Gyone de Cygony, Geoffrey de Martin, and his brothers, Philip Mark, and his brothers, and Geoffrey his nephew, and all their followers.—(LI. 41.) And immediately after the conclusion of the peace, we will remove out of the kingdom all foreign knights, cross-bow-men, and stipendiary soldiers, who have come with horses and arms to the molestation of the kingdom.—(LII. 25.) If any have been disseised or dispossessed by us, without a legal verdict of their peers, of their lands, castles, liberties, or rights, we will immediately restore these things to them; and if any dispute shall arise on this head, then it shall be determined by the verdict of the twenty-five Barons, of whom mention is made below, for the security of the peace.—Concerning all those things of which any one hath been disseised or dispossessed, without the legal verdict of his peers by King Henry our father, or King Richard our brother, which we have in our hand, or others hold with our warrants, we shall

respectum habebimus usque ad communem terminum Crucæ Signatorum: exceptis illis de quibus placitum motum fuit, vel inquisitio facta per præceptum nostrum, ante susceptionem Crucis nostræ; cum autem redierimus de peregrinatione nostra, vel si forte remanserimus a peregrinatione nostra statim inde plenam justitiam exhibebimus.—(LIII.) Eundem autem respectum habebimus, et eodem modo de justitia exhibenda, de forestis deafforestandis, vel remansuris forestis quas Henricus pater noster, vel Ricardus frater noster afforestaverunt; et de custodiis terrarum quæ sunt de alieno feodo, cujusmodi custodias hucusque habuimus, occasione feodi quod aliquis de nobis tenuit per Servitium Militare; et de Abbatiis quæ fundate fuerint in feodo alterius quam nostro, in quibus dominus feodi dixerit se jus habere; et cum redierimus, vel si remanserimus a peregrinatione nostra, super hiis conquerentibus pleplenam justitiam statim exhibebimus.—(LIV.) Nullus capiatur nec inprisonetur propter appellum feminæ de morte alterius, quam viri sui. —(LV. 37.) Omnes fines qui injuste, et contra legem terræ facti, sunt nobiscum, et omnia amerciamenta facta injuste, et contra legem terræ, omnino condonentur, vel fiat inde per judicium viginti quinque Baronum de quibus fit mentio inferius in securitate pacis, vel per judicium

have respite, until the common term of the Croisaders, excepting those concerning which a plea had been moved, or an inquisition taken, by our precept, before our taking the Cross; but as soon as we shall return from our expedition, or if, by chance, we should not go upon our expedition, we will immediately do complete justice therein.—(LIII.) The same respite will we have, and the same justice shall be done, concerning the disforestation of the forests, or the forests which remain to be disforested, which Henry our father, or Richard our brother, have afforested; and *the same* concerning the wardship of lands which are in another's fee, but the wardship of which we have hitherto had, occasioned by any of our fees held by Military Service; and for Abbies founded in any other fee than our own, in which the Lord of the fee hath claimed a right; and when we shall have returned, or if we shall stay from our expedition, we shall immediately do complete justice in all these pleas.—(LIV.) No man shall be apprehended or imprisoned on the appeal of a woman, for the death of any other man than her husband.—(LV. 37.) All fines that have been made by us unjustly, or contrary to the laws of the land; and all amerciaments that have been imposed unjustly, or contrary to the laws of the land, shall be wholly remitted, or ordered by the verdict of the twenty-five Barons, of whom mention is made below, for the security of the peace, or by the verdict of

majoris partis eorumdem, una cum prædicto Stephano, Cantuariensis Archiepiscopo, si interesse poterit, et aliis quos secum ad hoc vocare voluerit: et si interesse non poterit, nihilominus procedat negotium sine eo; ita quod si aliquis, vel aliqui, de prædictis viginti quinque Baronibus, fuerint in simili querela, amoveantur, quantum ad hoc judicium, et alii loco illorum per residuos de eisdem viginti quinque tantum ad hoc faciendum electi et jurati, substituantur.—(LVI. 44.) Si nos dissaisivimus vel elongavimus Walenses de terris, vel libertatibus, vel rebus aliis, sine legali judicio parium suorum in Anglia, vel in Wallia, eis statim reddantur; et si contentio super hoc orta fuerit, tunc inde fiat in Marchia per judicium parium suorum: de tenementis Angliæ, secundum legem Angliæ; de tenementis Walliæ, secundum legem Walliæ; de tenementis Marchiæ, secundum legem Marchiæ. Idem facient Walenses nobis et nostris.—(LVII.) De omnibus autem illis de quibus aliquis Walensium dissaisitus fuerit, vel elongatus, sine legali judicio parium suorum, per Henricum Regem patrem nostrum, vel Richardum Regem fratrem nostrum, quæ nos in manu nostra habemus, vel quæ alii tenent quæ nos oporteat warantizare, respectum habebimus usque ad communem terminum Crucæ Signatorum, illis exceptis, de quibus placitum motum fuit, vel in-

the greater part of them, together with the aforesaid Stephen, Archbishop of Canterbury, if he can be present, and others whom he may think fit to bring with him: and if he cannot be present, the business shall proceed, notwithstanding, without him; but so, that if any one or more of the aforesaid twenty-five Barons have a similar plea, let them be removed from that particular trial, and others elected and sworn by the residue of the same twenty-five, be substituted in their room, only for that trial.—(LVI. 44.) If we have disseised or dispossessed any Welshmen of their lands, or liberties, or other things, without a legal verdict of their peers, in England or in Wales, they shall be immediately restored to them; and if any dispute shall arise upon this head, then let it be determined in the Marches by the verdict of their peers: for a tenement of England, according to the law of England; for a tenement of Wales, according to the law of Wales; for a tenement of the Marches, according to the law of the Marches. The Welsh shall do the same to us and to our subjects.—(LVII.) Also concerning those things of which any Welshman hath been disseised or dispossessed without the legal verdict of his peers, by King Henry our father, or King Richard our brother, which we have in our hand, or others hold with our warrant, we shall have respite, until the common term of the Croisaders, excepting for those concerning which a plea had been moved, or an in-

quisitio facta per præceptum nostrum, ante susceptionem crucis nostræ. Cum autem redierimus, vel si forte remanserimus a peregrinatione nostra, statim eis inde plenam justitiam, exhibibemus secundum leges Wallensium, et partes prædictas.—(LVIII. 45.) *Nos reddemus filium Leuelini, statim, et omnes obsides de Wallia, et cartas quæ nobis liberate fuerunt in securitatem pacis.—(LIX.* 46.) *Nos faciemus Alexandro Regi Scottorum, de sororibus suis, et obsidibus reddendis, et libertatibus suis, et jure suo, secundum formam in qua faciemus aliis Baronibus nostris Angliæ, nisi aliter esse debeat per cartas quas habemus de Gulielmo patræ ipsius quondam Rege Scottorum; et hoc erit per judicium parium suorum in curia nostra.—(LX.* 48.*) Omnes autem istas consuetudines prædictas, et libertates quas nos concessimus in regno nostro tenendas, quantum ad nos pertinet erga nostros, omnes de regno nostro, tam clerici quam laici observent, quantum ad se pertinet erga suos.—(LXI.* 49.*) Cum autem pro DEO et ad emendationem regni nostri, et ad melius sopiendum discordiam inter nos et Barones nostros ortam, hæc omnia prædicta concesserimus, volentes ea integra et firma stabilitate in perpetuum gaudere, facimus et concedemus eis securitatem subscriptam; videlicet, quod Barones eligent viginti quinque Barones de reg-*

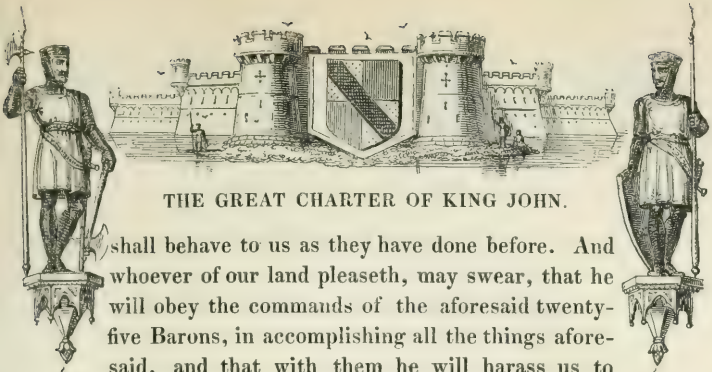
quisition made, by our precept, before our taking the cross. But as soon as we shall return from our expedition, or if, by chance, we should not go upon our expedition, we shall immediately do complete justice therein, according to the laws of Wales, and the parts aforesaid.—(LVIII. 45.) We will immediately deliver up the son of Llewelin, and all the hostages of Wales, and release them from their engagements which were made with us, for the security of the peace.—(LIX. 46.) We shall do to Alexander King of Scotland, concerning the restoration of his sisters and hostages, and his liberties and rights, according to the form in which we act to our other Barons of England, unless it ought to be otherwise by the charters which we have from his father William, the late King of Scotland; and this shall be by the verdict of his peers in our court.--(LX. 48.) Also all these customs and liberties aforesaid, which we have granted to be held in our kingdom, for so much of it as belongs to us, all our subjects, as well clergy as laity, shall observe towards their tenants as far as concerns them.--(LXI. 49.) But since we have granted all these things aforesaid, for GOD, and for the amendment of our kingdom, and for the better extinguishing the discord which has arisen between us and our Barons, we being desirous that these things should possess entire and unshaken stability for ever, give and grant to them the security underwritten; namely, that the Barons may elect twenty-five Barons of the king-

no, quos voluerint, qui debeant pro totis viribus suis, observare, tenere, et facere observari, pacem et libertates quas eis concessimus et hac presente carta nostra confirmavimus: ita, scilicet, quod si nos, vel Justiciarius noster, vel ballivi nostri, vel aliquis de ministris nostris, in aliquo erga aliquem deliquerimus, vel aliquem articulorum pacis aut securitatis transgressi fuerimus, et delictum ostensum fuerit quatuor Baronibus de prædictis viginti quinque Baronibus, illi quatuor Barones accedent ad nos, vel ad Justiciarium nostrum, si fuerimus extra regnum, proponentes nobis excessum, petent, ut excessum illum sine dilatione faciamus emendari. Et si nos excessum non emendaverimus, vel si fuerimus regnum, Justiciarius noster non emendaverit, infra tempus quadraginta dierum, computandum a tempore quo monstratum fuerit nobis, vel Justiciario nostro, si extra regnum fuerimus, prædicti quatuor Barones referant causam illam ad residuos de illis viginti quinque Baronibus, et illi, viginti quinque Barones, cum communa totius terræ, distringent et gravabunt nos modis omnibus quibus poterunt; scilicet, per captionem castrorum, terrarum, possessionem, et aliis modis quibis poterunt, donec fuerit emendatum secundum arbitrium eorum; salva persona nostra, et Reginæ nostræ, et liberorum nostrorum; et cum fuerit emendatum,

dom, whom they please, who shall with their whole power, observe, keep, and cause to be observed, the peace and liberties which we have granted to them, and have confirmed by this our present charter, in this manner: that is to say, if we, or our Justiciary, or our bailiffs, or any of our officers, shall have injured any one in any thing, or shall have violated any article of the peace or security, and the injury shall have been shown to four of the aforesaid twenty-five Barons, the said four Barons shall come to us, or to our Justiciary if we be out of the kingdom, and making known to us the excess committed, petition that we cause that excess to be redressed without delay. And if we shall not have redressed the excess, or, if we have been out of the kingdom, our Justiciary shall not have redressed it within the term of forty days, computing from the time when it shall have been made known to us, or to our Justiciary if we have been out of the kingdom, the aforesaid four Barons, shall lay that cause before the residue of the twenty-five Barons; and they, the twenty-five Barons, with the community of the whole land, shall distress and harass us by all the ways in which they are able; that is to say, by the taking of our castles, lands, and possessions, and by *any* other means in their power, until the excess shall have been redressed, according to their verdict; saving *harmless* our person, and *the persons* of our Queen and children; and when it hath been redressed, they



intendent nobis sicut prius fecerunt. Et quicumque voluerit de terra, juret quod ad prædicta omnia exequenda, parebit mandatis prædictorum viginti quinque Baronum, et quod gravabit nos pro posse suo cum ipsis: et nos publice et libere damus licentiam jurandi cuilibet qui jurare voluerit, et nulli umquam jurare prohibebimus. Omnes autem illos de terra, qui per se et sponte sua noluerint jurare viginti quinque Baronibus, de distringendo et gravando nos cum eis, faciemus jurare eosdem de mandato nostro, sicut prædictum est. Et si aliquis de viginti quinque Baronibus decesserit, vel a terra recesserit, vel aliquo alio modo impeditus fuerit, quominus ista prædicta possent exequi, qui residui fuerint de prædictis viginti quinque Baronibus, eligant alium loco ipsius, pro arbitrio suo, qui simili modo erit juratus, quo et cæteri. In omnibus autem, quæ istis viginti quinque Baronibus committuntur exequenda, si forte ipsi viginti quinque presentes fuerint, et inter se super re aliqua discordaverint, vel aliqui ex eis summoniti nolint, vel nequeant interesse, ratum habeatur et firmum, quod major pars eorum, qui presentes fuerint, providerit, vel præceperit; ac si omnes viginti quinque in hoc consensissent: et prædicti viginti quinque jurent quod



shall behave to us as they have done before. And whoever of our land pleaseth, may swear, that he will obey the commands of the aforesaid twenty-five Barons, in accomplishing all the things aforesaid, and that with them he will harass us to the utmost of his power: and we publicly and freely give leave to every one to swear who is willing to swear; and we will never forbid any to swear. But all those of our land, who, of themselves, and of their own accord, are unwilling to swear to the twenty-five Barons, to distress and harass us *together* with them, we will compel them by our command, to swear as aforesaid. And if any one of the twenty-five Barons shall die, or remove out of the land, or in any other way shall be prevented from executing the things above said, they who remain of the twenty-five Barons shall elect another in his place, according to their own pleasure, who shall be sworn in the same manner as the rest. In all those things which are appointed to be done by these twenty-five Barons, if it happen that all the twenty-five have been present, and have differed in their opinions about any thing, or if some of them who had been summoned, would not, or could not be present, that which the greater part of those who were present shall have provided and decreed, shall be held as firm and as valid, as if all the twenty-five had agreed in it: and the aforesaid twenty-five shall swear, that they will faithfully observe, and, with all their power, cause

omnia antedicta fideliter observabunt, et pro toto posse suo facient observari. Et nos nihil impetrabimus ab aliquo, per nos, nec per alium, per quod aliqua istarum concessionum et libertatum revocetur vel minuatur. Et si aliquid tale impetratum fuerit, irritum sit et inane; et numquam eo utemur, per nos, nec per alium.—(LXII.) Et omnes malas voluntates, indignationes, et rancores ortos, inter nos et homines nostros, clericos et laicos, a tempore discordiæ, plene omnibus remisimus et condonavimus. Præterea, omnes transgressiones factas occasione ejusdem discordiæ, a Pascha anno regni nostri sextodecimo, usque ad pacem reformatam, plene remisimus omnibus clericis et laicis, et quantum ad nos pertinet, plene condonavimus.—(49.) Et, insuper, fecimus eis fieri literas testimoniales patentes domini Stephani Cantuariensis Archiepiscopi, Domini Henrici Dubliniensis Archiepiscopi, et Episcoporum prædictorum, et Magistri Pandulphi, super securitate ista et concessionibus præfatis.—(LXIII.) Quare, volumus, et firmiter præcipimus, quod Anglicana Ecclesia libera sit; et quod homines in regno nostro habeant et teneant omnes præfatas libertates, jura, et concessiones, bene et in pace, libere et quiete, plene et integre, sibi et hæredibus suis, de nobis et hæredibus nostris, in omnibus rebus et locis, in perpetuum, sicut prædictum est. Juratum est autem, tam ex parte nostra, quam ex parte Baronum, quod hæc omnia supradicta bona fide, et

to be observed, all the things mentioned above. And we will obtain nothing from any one, by ourselves, nor by another, by which any of these concessions and liberties may be revoked or diminished. And if any such thing shall have been obtained, let it be void and null: and we will never use it, neither by ourselves nor by another.—(LXII.) And we have fully remitted and pardoned to all men, all the ill-will, rancour, and resentments, which have arisen between us and our subjects, both clergy and laity, from the commencement of the discord. Moreover, we have fully remitted to all the clergy and laity, and as far as belongs to us, have fully pardoned all transgressions committed by occasion of the said discord, from Easter, in the sixteenth year of our reign, until the conclusion of the peace.—(49.) And, moreover, we have caused to be made to them testimonial letters-patent of the Lord Stephen, Archbishop of Canterbury, the Lord Henry, Archbishop of Dublin, and of the aforesaid Bishops, and of Master Pandulph concerning this security, and the aforesaid concessions.—(LXIII.) Wherefore, our will is, and we firmly command that the Church of England be free, and that the men in our kingdom have and hold the aforesaid liberties, rights, and concessions, well and in peace, freely and quietly, fully and entirely, to them and their heirs, of us and our heirs, in all things and places, for ever as is aforesaid. It is also sworn, both on our part, and on that of the Barons, that all the aforesaid shall be observed in

sine malo ingenio servabuntur. Testibus supradictis, et multis aliis. Data per manum nostram, in Prato quod vocatur Runimede, inter Windeleshorum et Stanes, quintodecimo die Junii, anno regni nostri septimo decimo.



good faith, and without any evil intention. Witnessed by the above, and many others.—Given by our hand in the Meadow which is called Runningmead, between Windsor and Staines, this 15th day of June, in the 17th year of our reign.



TRANSLATION OF THE COVENANT,

MADE BETWEEN

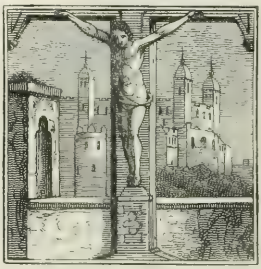
KING JOHN AND THE BARONS

OF

England.

A. D. 1215.

VIDE THE PRECEDING ESSAY, PAGE 31.



THIS is the Covenant *made* between our Lord John King of England, on the one part; and Robert Fitzwalter, elected Marshal of God and of the Holy Church in England, and Richard Earl of Clare, Geoffrey Earl of Essex and Gloucester, Roger Bigod Earl of Norfolk and Suffolk, Saher Earl of Winchester, Robert Earl of Oxford, Henry Earl of Hereford, and the Barons under-written: That is to say, William Marshall the younger, Eustace de Vescy, William de Mowbray, John Fitz Robert, Roger de Mont-Begon, William de Lanvalay, and other Earls and Barons, and Freemen of the whole kingdom, on the other part: namely, That they the Earls and Barons and others before written, shall hold the custody of the City of London in bail from our

Lord the King; saving that they shall clearly render all the debts and revenues within the same, to our Lord the King, until the term of the Assumption of the Blessed *Virgin* Mary, in the seventeenth year of his reign.

And the Lord of Canterbury shall hold in like manner of bail from our Lord the King, the custody of the Tower of London, to the aforesaid term; saving to the City of London it's liberties and free customs, and taking his oath in the keeping of the said Tower, that our Lord the King shall in the mean while not place a guard nor other forces in the aforesaid City, nor in the Tower of London.

And that also within the aforesaid term, the oaths to the twenty-five Barons, be tendered throughout all England as it is contained in the Charter granted concerning the liberties and security of the kingdom; or to the attornies of the twenty-five Barons as it is contained in the letters granted concerning the election of twelve knights for abolishing evil customs of the forests and others.—And, moreover, within the said term, all the other demands which the Earls, Barons, and other freemen do ask of our Lord the King which he himself has declared to be granted to them, or which by the twenty-five Barons, or by the greater part of them shall be judged proper to be granted, are to be given, according to the tenor of the said Charter. And if these things shall be done, or if our Lord the King on his part shall agree to do them,

within the term limited, then the City and Tower of London shall at the same term be delivered up to our Lord the King, saving always to the aforesaid City it's liberties and free customs as it is before written.—And if these things shall not be done, and if our Lord the King shall not agree to do them within the period aforesaid, the Barons shall hold the aforesaid City and the lord Archbishop the Tower of London, until the aforesaid *deeds* shall be completed. And in the mean-while, all of both parts shall recover the castles, lands, and towns, which have been taken in the beginning of the war that has arisen between our Lord the King, and the Barons.



THE

FIRST GREAT CHARTER

OF

King Henry the Third;

Granted November 12th. A D. 1216,

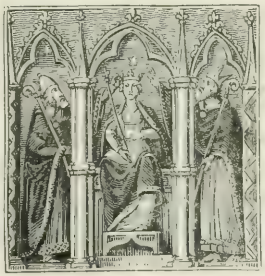
IN THE FIRST YEAR OF HIS REIGN.

Vide the preceding Essay, page 37.

TRANSLATED FROM THE ORIGINAL, PRESERVED IN THE ARCHIVES OF DURHAM CATHEDRAL.

Those parts of the ensuing instrument which are printed in Italics, shew the variations between this Charter and that granted by King John, Vide ante, pages 62, 65

The Roman Numerals divide the Charter into Chapters; and the Arabic figures refer back to the divisions of the grant of King John, for the purpose of comparison.



HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to the Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, Bailiffs, and to all his faithful subjects,—Greeting. Know ye, that We, in the presence of God, and for the salvation of our own soul, and of the souls of our ancestors, and of our successors, to the honour of God, and the exaltation of the Holy Church, and the amendment of our King-

dom, by the counsel of our venerable fathers, the *Lord Gualo, entitled a Cardinal Priest of St. Martin, Legate from the Apostolic See;* Peter of Winchester, *Reinerus of St. Asaph*, Joceline of Bath and Glastonbury, *Simon of Exeter*, *Richard of Chichester*, William of Coventry, Benedict of Rochester, *Henry of Landaff*, —— *of St. David's*, —— *of Bangor, and Sylvester of Worcester*, of the Bishops; and of these noble persons, William Mareschal Earl of Pembroke, *Ranulph Earl of Chester*, *William de Ferrars Earl of Derby*, *William Earl of Albemarle*, Hubert de Burgh, our Justiciary, *Savary de Mallion*, *William de Bruer, the Father*, *William de Bruer, the Son*, *Robert de Courtenay*, *Fulke de Brent*, *Reginald de Vautort*, *Walter de Lacy*, *Hugo de Mortimer*, *John de Monmouth*, *Walter de Beauchamp*, *Walter de Clifford*, *Robert de Mortimer*, *William de Cantelow*, Matthew Fitz-Herbert, John Mareschal, Alan Basset, Philip de Albiniac, *John Le Strange*, and others of our liegemen; have in the —(I. 1.) First place granted to God, and by this our present Charter, have confirmed, for us and our heirs for ever, that the English Church shall be free, and shall have her whole rights and her liberties inviolable. We have also granted to all the Freemen of our Kingdom, for us and our heirs for ever, all the under-written liberties, to be enjoyed and held by them and by their heirs, from us and from our heirs.—(II. 2.) If any of our Earls

or Barons, or others who hold of us in chief by Military Service, shall die, and at his death his heir shall be of full age, and shall owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, a whole Earl's Barony for one hundred pounds: the heir or heirs of a Baron, for a whole Barony, for one hundred pounds; the heir or heirs of a Knight, for a whole Knight's Fee, for one hundred shillings at the most: and he who owes less, shall give less, according to the ancient custom of fees.—(III. 3.) But if the heir of any such be under age, *his Lord shall not have the Wardship of him nor of his land, before he shall have received his homage, and afterward such heir shall be in ward*; and when he shall come to age, *that is to say, to twenty and one years*, he shall have his inheritance without relief and without fine: *yet so that if he be made a Knight, whilst he be under age, nevertheless his lands shall remain in custody of his Lord, until the term aforesaid.*—(IV. 4.) The warden of the land of such heir who shall be under age, shall not take from the lands of the heir any but reasonable issues, and reasonable customs, and reasonable services, and that without destruction and waste of the men or goods; and if we commit the custody of any such lands to a Sheriff, or any other person who is bound to us for the issues of them, and he shall make destruction or waste upon the ward-lands, we will recover damages from him, and the lands shall be

committed to two lawful and discreet men of the same fee, who shall answer for the issues to us, or to him to whom we have assigned them: and if we shall give or sell to any one the custody of any such lands, and he shall make destruction or waste upon them, he shall lose the custody; and it shall be committed to two lawful and discreet men of the same fee, who shall answer to us in like manner as it is said before.—(V. 5.) But the warden, as long as he hath the custody of the lands, shall keep up and maintain the houses, parks, warrens, ponds, mills, and other things belonging to them, out of their issues; and shall restore to the heir when he comes of full age, his whole estate, provided with carriages *and all other things, at the least such as he received it. All these things shall be observed in the custodies of vacant Archbishoprics, Bishoprics, Abbies, Priories, Churches, and Dignities, which appertain to us, excepting that these wardships are not to be sold.*—(VI. 6.) Heirs shall be married without disparagement.—(VII. 7.) A widow, after the death of her husband, shall immediately, and without difficulty have her freedom of marriage and her inheritance; nor shall she give any thing for her dower, or for her freedom of marriage, or for her inheritance, which her husband and she held at the day of his death; and she may remain in her husband's house forty days after his death, within which time her dower shall be assigned; *unless it shall have been assigned before,*

or excepting his house shall be a Castle; and if she departs from the Castle, there shall be provided for her a complete house in which she may decently dwell, until her dower shall be assigned to her as aforesaid.—(VIII. 8.) No widow shall be distrained to marry herself, whilst she is willing to live without a husband; but yet she shall give security that she will not marry herself, without our consent, if she hold of us, or without the consent of her lord if she hold of another.—(IX. 9.) We nor our Bailiffs, will not seize any land nor rent for any debt, whilst the chattels of the debtor present sufficient for the payment of the debt, *and the debtor shall be ready to make satisfaction:* nor shall the sureties of the debtor be distrained, whilst the principal debtor is able to pay the debt; and if the principal debtor fail in payment of the debt, not having wherewith to discharge it, *or will not discharge it when he is able*, then the sureties shall answer for the debt; and if they be willing, they shall have the lands and rents of the debtor, until satisfaction be made to them for the debt which they had before paid for him, unless the principal debtor can shew himself acquitted thereof against the said sureties. —(X. 13) The City of London shall have all it's ancient liberties, and it's free customs, as well by land as by water.—Furthermore, we will and grant that all other Cities, and Burghs, and Towns, and *the Barons of the Cinque Ports, and all* Ports, should have all their liberties and free customs.—

(XI. 16.) None shall be distrained to do more service for a Knight's-Fee, nor for any other free tenement, than what is due from thence.--(XII.17.) Common Pleas shall not follow our court, but shall be held in any certain place.—(XIII. 18.) Trials upon the Writs of Novel Disseisin, of Mort d'Ancestre (death of the ancestor), and of Darrien Presentment (last presentation), shall not be taken but in their proper counties, and in this manner:— We, or our Chief Justiciary, if we should be out of the kingdom, will send two Justiciaries into each county, four times in the year, who, with four knights of each county, chosen by the county, shall hold the aforesaid assizes, within the county on the day, and at the place appointed.--(XIV. 19.) And if the aforesaid assizes cannot be taken on the day of the county-court, let as many knights and freeholders, of those who were present at the county-court remain behind, as shall be sufficient to do justice, according to the great or less importance of the business.—(XV. 20.) A Free-man shall not be amerced for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his contenement: a Merchant shall be amerced in the same manner, saving his merchandise, and a villain shall be amerced after the same manner, saving to him his wainage, if he shall fall into our mercy; and none of the aforesaid amerciaments shall be assessed, but by

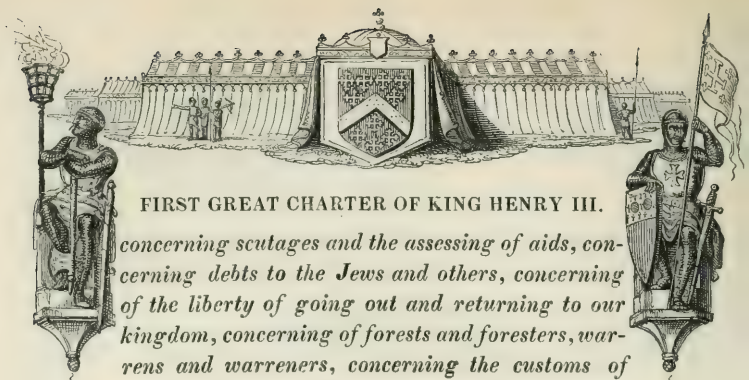
the oath of honest *and lawful* men of the vicinage.—(XVI. 21.) Earls and Barons shall not be amerced but by their Peers, and that only according to the degree of their delinquency.—(XVII. 22.) No Clerk shall be amerced excepting according to the form aforesaid, and not according to the quantity of his ecclesiastical benefice.—(XVIII. 23.) Neither a town nor any person shall be distrained to build bridges or embankments, excepting those which anciently, and of right, are bound to do it.—(XIX. 24.) No Sheriff, Constable, Coroners, nor other of our Bailiffs, shall hold pleas of our crown.—(XX. 26.) If any one holding of us a lay-fee dies, and the Sheriff or our Bailiff, shall shew our letters-patent of summons concerning the debt which the defunct owed to us, it shall be lawful for the Sheriff, or for our Bailiff to attach and register the chattels of the defunct found on that lay-fee, to the amount of that debt, by the view of lawful men, so that nothing shall be removed from thence until our debt be paid to us; and the rest shall be left to the executors to fulfil the will of the defunct; and if nothing be owing to us by him, all the chattels shall fall to the defunct, saving to his wife and children their reasonable shares.—(XXI. 28.) No Constable, Governor, nor *his* Bailiff, shall take the corn or other goods of any one, *who is not of that town where his Castle is*, without instantly paying money for them, unless he can obtain a respite from the

free will of the seller; *but if he be of that town wherein the Castle is, he shall give him the price within three weeks.*—(XXII. 29.) No Constable shall distrain any Knight to give money for Castle-guard, if he be willing to perform it in his own person, or by another able man, if he cannot perform it himself, for a reasonable cause: and if we have carried or sent him into the army, he shall be excused from Castle-guard, according to the time that he shall be in the army by our command.—(XXIII. 30.) No Sheriff nor Bailiff of ours, nor of any other person shall take the horses or carts of any, for the purpose of carriage, *without paying according to the rate anciently appointed; that is to say, for a cart with two horses, ten-pence by the day, and for a cart with three horses, fourteen-pence by the day.*—(XXIV. 31.) Neither we, nor our Bailiffs, will take another man's wood, for our castles or for other uses, unless by the consent of him to whom the wood belongs.—(XXV. 32.) We will not retain the lands of those who have been convicted of felony, excepting for one year and one day, and then they shall be given up to the lord of the fee.—(XXVI. 33.) All Kydells (wears) for the future shall be quite removed out of the Thames and the Medway, and through all England, excepting upon the sea-coast.—(XXVII. 34.) The Writ which is called Præcipe, for the future shall not be granted to any one of any tenement, by which a Free-man may lose his

court.—(XXVIII. 35.) There shall be one Measure of Wine throughout all our kingdom, and one Measure of Ale, and one Measure of Corn, namely the Quarter of London; and one breadth of Dyed Cloth, and of Russets, and of Halberjects, namely, Two Ells within the lists. Also it shall be the same with Weights as with Measures.--(XXIX. 36.) Nothing shall be given or taken for the Writ of Inquisition of life or limb; but it shall be given without charge, and not denied.—(XXX. 37.) If any hold of us by Fee-Farm, or Socage, or Burgage, and hold land of another by Military Service, we will not have the custody of the heir, nor of his lands, which are of the fee of another, on account of that Fee-Farm, or Socage, or Burgage; nor will we have the custody of the Fee-Farm, Socage, or Burgage, unless the Fee-Farm owe Military Service. We will not have the custody of the heir, nor of the lands of any one, which he holds of another by Military Service, on account of any Petty-Sergeantry which he holds of us by the service of giving us daggers, or arrows, or the like.—(XXXI. 38.) No Bailiff, for the future, shall put any man to his law, upon his own simple affirmation, without credible witnesses produced for that purpose.—(XXXII. 39.) No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.—(XXXIII. 40.) To none will we sell, to none

will we deny, to none will we delay right or justice.—(XXXIV. 41.) All Merchants, *unless they have before been publicly prohibited*, shall have safety and security in going out of England, and in coming into England, and in staying and in travelling through England, as well by land as by water, to buy and sell, without any unjust exactions, according to ancient and right customs, excepting in the time of war, and if they be of a country at war against us: and if such are found in our land at the beginning of a war, they shall be apprehended, without injury of their bodies or goods, until it be known to us, or to our Chief Justiciary, how the Merchants of our country are treated who are found in the country at war against us: and if our's be in safety there, the others shall be in safety in our land.—(XXXV. 43.) If any hold of any escheat, as of the Honour of Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats which are in our hand, and are Baronies, and shall die, his heir shall not give any other relief, nor do any other service to us, than he should have done to the Baron, if *those lands* had been in the hands of the Baron; and we will hold it in the same manner that the Baron held it.—(XXXVI. 44.) Men who dwell without the Forest, shall not come, for the future, before our Justiciaries of the Forest on a common summons: unless they be parties in a plea, or sureties for some person or persons who are attached for the Forest.—(XXXVII. 46.) All Barons who have founded Abbies, which they hold by charters from

the Kings of England, or by ancient tenure, shall have the custody of them when they become vacant, as they ought to have, *and such as it hath been declared above*.—(XXXVIII. 47.) All Forests which have been made in the time of *King John our Father*, shall be immediately disforested; and it shall be so done with Water-banks, which have been taken or fenced in by *the same John* during *his* reign.—(XXXIX. 54.) No man shall be apprehended or imprisoned on the appeal of a woman, for the death of any other man than her husband. —(XL. 56.) *And if the King John our Father, hath* disseised or dispossessed any Welshmen of their lands, or liberties, or other things, without a legal verdict of their peers, in England or in Wales, they shall be immediately restored to them; and if any dispute shall arise upon this head, then let it be determined in the Marches by the verdict of their peers: for a tenement of England, according to the law of England; for a tenement of Wales, according to the law of Wales: for a tenement of the Marches, according to the law of the Marches: also the Welsh shall do the same to us and to our subjects.—(XLI. 60.) Also all those customs and liberties aforesaid, which we have granted to be held in our kingdom, for so much of it as belongs to us, all our subjects, as well clergy as laity, shall observe towards their tenants as far as it concerns them.—*(XLII.) But because in some chapters in the first Charter, were contained that which seemed weighty and doubtful; namely,*



concerning scutages and the assessing of aids, concerning debts to the Jews and others, concerning of the liberty of going out and returning to our kingdom, concerning of forests and foresters, warrens and warreners, concerning the customs of counties, and concerning rivers and their keepers, it hath pleased the aforesaid prelates and nobles, that they be had in respect, until we may have a full council, and then we will provide most fully, as well for those as for other emendations which have occurred, for the common use of all whom they shall have pertained to, and the peace and estate of us and our kingdom. But because we have not as yet any seal, we have caused the present Charter to be sealed with the seals of our venerable father the Lord Gualo, Cardinal Priest by the title of Saint Martin, Legate of the Apostolic See; and of William Marshal Earl of Pembroke, the guardian of us and of our kingdom, at Bristol the twelfth day of November, in the first year of our reign.

It has been stated at page thirty-seven of the preceding Essay, that the foregoing Charter was sent into Ireland; and in the Patent Rolls preserved in the Record Office of the Tower of London, there is a copy of the King's Letter dispatched with it. It is marked M 13, and has been printed in the original Latin in the recent edition of Rymer's Fœdera, Lond. 1816, Fol. Vol. I. Part I. page 146, whence the ensuing translation has been made.

The King's Letter concerning the Charter of Liberties, lately transmitted to the Provinces of Ireland.

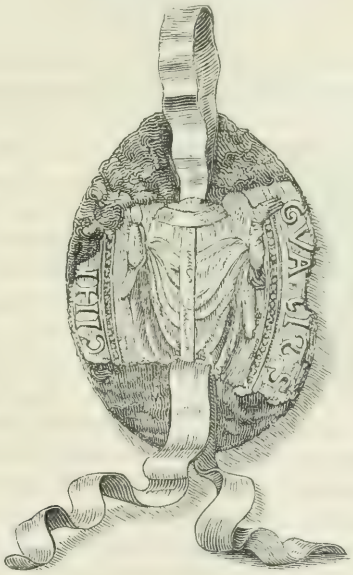
The King to the Archbishops, Bishops, Abbots, Earls, Barons, Knights, and to all his faithful subjects who are settled throughout Ireland, Greeting.



PATENT LETTER TO IRELAND.

Commending your faith in the Lord, which ye have always shewn unto the Lord our father, and are at this day exhibiting unto us and our's, we will give, in token of your fidelity, so manifest and so famous, to our kingdom of Ireland, the liberties of our kingdom of England, granted by our father and ourself out of our grace, that you and your heirs may perpetually rejoice: which liberties, distinctly reduced to writing, by the common council of all our realm, we send to you our faithful subjects, signed with the seal of our Lord Gualo, Legate of the Apostolic See, and of our faithful William Marshal, Earl of Pembroke, the guardian of us and of our kingdom.

Because we have not as yet any seal, this process is to be sealed at the same time by the private seals of the chiefs of the council. Witnessed at Gloucester, the sixth day of February.



THE

SECOND GREAT CHARTER

OF

King Henry the Third;

Granted A.D. 1217,

IN THE SECOND YEAR OF HIS REIGN.

Vide the preceding Essay, pages 37, 38.

TRANSLATED FROM THE ORIGINAL, PRESERVED IN THE BODLEIAN LIBRARY, OXFORD.

Those parts of the ensuing instrument which are printed in Italics, shew the variations between this Charter and that immediately preceding.

The Roman Numerals divide the Charter into Chapters; and the Arabic figures refer back to the divisions of the first grant of King Henry III. for the purpose of comparison.



HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to the Archbishops, Bishops, Abbots, *Priors*, Earls, Barons, Sheriffs, Governors, Officers, *and all* Bailiffs, and his faithful subjects, *who see this present charter*,—Greeting. Know ye, that in the presence of God, and for the salvation of our own soul, and of the souls of our ancestors, and of our successors, to the exaltation of the Holy Church, and the amendment of our kingdom, *we*

grant, and by this present Charter we have confirmed for us and for heirs for ever, by the counsel of our venerable fathers, the Lord Gualo, entitled a Cardinal Priest of St. Martin, Legate from the Apostolic See; *the Lord Walter, Archbishop of York, William, Bishop of London, and other Bishops of England*, and William Mareschal Earl of Pembroke, *Guardian of us and of our kingdom*, and others *of our faithful Earls and Barons of England*,—these underwritten liberties to be held *in our realm of England for ever*.—(I. 1.) In the first place we grant unto God, and by this our present Charter we have confirmed for us and for our heirs for ever, that the English Church shall be free, and shall have her whole rights, and her liberties, inviolable. We have also granted to all the freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties to be held by them and by their heirs, of us and of our heirs.—(II. 2.) If any of our Earls or Barons, or others who hold of us in chief by Military Service, shall die, and at his death his heir shall be of full age, and shall owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, a whole Earl's Barony for one hundred pounds: the heir or heirs of a Baron, a whole Barony, for one hundred pounds; the heir or heirs of a Knight, a whole Knight's Fee, for one hundred shillings at the most: and he who owes less, shall give less, according to

the ancient customs of fees.—(III. 3.) But if the heir of any such be under age, his Lord shall not have the Wardship of him nor of his land, before he shall have received his homage, and afterward such heir shall be in ward; and when he shall come to age, that is to say, to twenty and one years, he shall have his inheritance without relief and without fine: yet so, that if he be made a Knight, whilst he is under age, his lands shall nevertheless remain in custody of his *Lords*, until the term aforesaid.—(IV. 4.) The warden of the land of such heir who shall be under age, shall not take from the lands of the heir any but reasonable issues, and reasonable customs, and reasonable services, and that without destruction and waste of the men or goods. And if we commit the custody of any such lands to a Sheriff, or any other person who is bound to us for the issues of them, and he shall make destruction or waste upon the ward-lands, we will recover damages from him, and the lands shall be committed to two lawful and discreet men of the same fee, who shall answer for the issues to us, or to him to whom we have assigned them: and if we shall give or sell to any one the custody of any such lands, and he shall make destruction or waste upon them, he shall lose the custody; and it shall be committed to two lawful and discreet men of the same fee, who shall answer to us in like manner as it is said before.—(V. 5.) But the warden, as long as he hath the custody of the lands, shall keep up

and maintain the houses, parks, warrens, ponds, mills, and other things belonging to them, out of their issues; and shall restore to the heir, when he comes of full age, his whole estate, provided with carriages and all other things, at the least such as he received it. All these things shall be observed in the custodies of vacant Archbishoprics, Bishoprics, Abbies, Priories, Churches, and Dignities, which appertain to us. Excepting that these wardships are not to be sold.—(VI. 6.) Heirs shall be married without disparagement.—(VII. 7.) A widow, after the death of her husband, shall immediately, and without difficulty, have her freedom of marriage and her inheritance; nor shall she give any thing for her dower, or for her freedom of marriage, or for her inheritance, which her husband and she held at the day of his death; and she may remain *in the principal messuage* of her husband, for forty days after her husband's death, within which time her dower shall be assigned; unless it shall have been assigned before, or excepting his house shall be a Castle; and if she depart from the Castle, there shall be provided for her a complete house in which she may decently dwell, until her dower shall be assigned to her as aforesaid. *And she shall have her reasonable Estover within a common term. And for her dower, shall be assigned to her the third part of all the lands of her husband, which were his during his life, except she were endowed with less at the church door.—*

(VIII. 8.) No widow shall be distrained to marry herself, whilst she is willing to live without a husband; but yet she shall give security that she will not marry herself, without our consent, if she hold of us, or without the consent of her lord if she hold of another.—(IX. 9.) We nor our Bailiffs, will not seize any land or rent for any debt, whilst the chattels of the debtor present sufficient for the payment of the debt, and the debtor shall be ready to make satisfaction: nor shall the sureties of the debtor be distrained, whilst the principal debtor is able to pay the debt; and if the principal debtor fail in payment of the debt, not having wherewith to discharge it, or will not discharge it when he is able, then the sureties shall answer for the debt; and if they be willing, they shall have the lands and rents of the debtor, until satisfaction be made to them for the debt which they had before paid for him, unless the principal debtor can shew himself acquitted thereof against the said sureties. —(X. 10.) The City of London shall have all it's ancient liberties, and it's free customs, as well by land as by water.—Furthermore, we will and grant that all other Cities, and Burghs, and Towns, and the Barons of the Cinque Ports, and all Ports, should have all their liberties and free customs.—(XI. 11.) None shall be distrained to do more service for a Knight's-Fee, nor for any other free tenement, than what is due from thence.--(XII. 12.) Common Pleas shall not follow our court, but

shall be held in any certain place.—(XIII. 13.) Trials upon the Writs of Novel Disseisin and of Mort d'Ancestre, shall not be aken but in their proper counties, and in this manner:—We, or our Chief Justiciary, if we should be out of the kingdom, will send Justiciaries into every county, *once* in the year; who, with the knights of each county, shall hold in the county, the aforesaid assizes.—(XIV. 14.) *And those things, which at the coming of the aforesaid Justiciaries being sent to take the said assizes, cannot be determined, shall be ended by them in some other place in their circuit; and those things which for difficulty of some of the articles cannot be determined by them, shall be determined by our Justiciaries of the Bench, and there shall be ended.—(XV.) Assizes of Last Presentation shall always be taken before our Justiciaries of the Bench, and there shall be determined.* —(XVI. 15.) A Free-man shall not be amerced for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his contenement: a Merchant in the same manner, saving his merchandise, and a villain, *if he belong to another*, shall be amerced after the same manner, saving to him his Wainage, if he shall fall into our mercy; and none of the aforesaid amerciaments shall be assessed, but by the oath of honest and lawful men of the vicinage.—(XVII. 16.) Earls and Barons shall not be amerced but

by their Peers, and that only according to the degree of their delinquency.—(XVIII. 17.) No *Ecclesiastical person* shall be amerced according to the quantity of his ecclesiastical benefice, *but according to the quantity of his lay-fee, and the extent of his crime.*—(XIX. 18.) Neither a town nor any person shall be distrained to build bridges or embankments, excepting those which anciently, and of right, are bound to do it.—*(XX.) No embankments shall from henceforth be defended, but such as were in defence in the time of King Henry our grandfather; by the same places, and the same bounds as they were accustomed to be in his time.* —(XXI. 19.) No Sheriff, Constable, Coroners, nor other of our Bailiffs, shall hold pleas of our crown.—(XXII. 20.) If any one holding of us a lay-fee dies, and the Sheriff or our Bailiff shall shew our letters-patent of summons concerning the debt which the defunct owed to us, it shall be lawful for the Sheriff, or for our Bailiff to attach and register the chattels of the defunct found on that lay-fee, to the amount of that debt by the view of lawful men, so that nothing shall be removed from thence until our debt be paid to us; and the rest shall be left to the executors to fulfil the will of the defunct; and if nothing be owing to us by him, all the chattels shall fall to the defunct, saving to his wife and children their reasonable shares.—(XXIII, 21.) No Constable, Governor, nor his Bailiff, shall take the corn or other goods of

any one, who is not of that town where his Castle is, without instantly paying money for them, unless he can obtain a respite from the free will of the seller; but if he be of that town wherein the Castle is, he shall give him the price within *forty days.* —(XXIV. 22.) No Constable shall distrain any Knight to give him money for Castle-guard, if he be willing to perform it in his own person, or by another able man, if he cannot perform it himself, for a reasonable cause: and if we do lead or send him into the army, he shall be excused from Castle-guard, according to the time that he shall be *with us in the army, on account of the fee for which he hath done service in the host.*—(XXV. 23.) No Sheriff nor Bailiff of our's, nor of any other person, shall take the horses or carts of any, for the purpose of carriage, without paying according to the rate anciently appointed; that is to say, for a cart with two horses, ten-pence by the day, and for a cart with three horses, fourteen-pence by the day. —*(XXVI.) No demesne cart of any ecclesiastical person, or knight, or any lord, shall be taken by the aforesaid bailiffs.*—(XXVII. 24.) Neither we, nor our Bailiffs, *nor those of another*, shall take another man's wood, for our castles or for other uses, unless by the consent of him to whom the wood belongs.—(XXVIII. 25.) We will not retain the lands of those who have been convicted of felony, excepting for one year and one day, and then they shall be given up to the lord of the fee.—(XXIX. 26.) All Kydells (wears) for the future, shall be

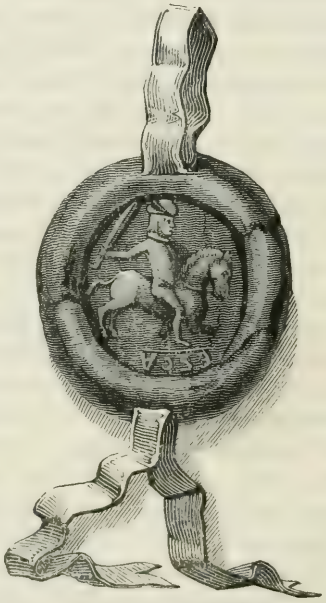
quite removed out of the Thames and the Medway, and through all England, excepting upon the sea coast.—(XXX. 27.) The Writ which is called Præcipe, for the future shall not be granted to any one of any tenement, by which a Free-man loses his court.—(XXXI. 35.) There shall be one Measure of Wine throughout all our kingdom, and one Measure of Ale, and one Measure of Corn, namely the Quarter of London; and one breadth of Dyed Cloth, and of Russets, and of Halberjects, namely, Two Ells within the lists. Also it shall be the same with Weights as with Measures.—(XXXII. 29.) Nothing shall for the future be given or taken for a Writ of Inquisition, *nor taken of him that prayeth Inquisition* of life or limb; but it shall be given without charge, and not denied.—(XXXIII. 30.) If any hold of us by Fee-Farm, or Socage, or by Burgage, and hold land of another by Military Service, we will not have the custody of the heir, nor of his lands, which are of the fee of another, on account of that Fee-Farm, or Socage, or Burgage; nor will we have the custody of the Fee-Farm, Socage, or Burgage, unless the Fee-Farm owe Military Service. We will not have the custody of the heir, nor of the lands of any one, which he holds of another by Military Service, on account of any Petty-Sergeantry which he holds of us by the service of giving us daggers, or arrows, or the like.—(XXXIV. 31.) No Bailiff, for the future, shall put any man to his *open* law, *nor to an oath*, upon his own simple affirmation, without

faithful witnesses produced for that purpose.—(XXXV. 32.) No Free-man shall be taken or imprisoned, or dispossessed, *of his free tenement, or liberties, or free customs*, or be outlawed, *or exiled*, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.—(XXXVI. 33.) To none will we sell, to none will we deny, to none will we delay right or justice.—(XXXVII. 34.) All Merchants, unless they have before been publicly prohibited, shall have safety and security in going out of England, and in coming into England, and in staying and in travelling through England, as well by land as by water, to buy and sell, without any unjust exactions, according to ancient and right customs, excepting in the time of war, and if they be of a country at war against us: and if such are found in our land at the beginning of a war, they shall be apprehended, without injury of their bodies or goods, until it be known to us, or to our Chief Justiciary, how the Merchants of our country are treated who are found in the country at war against us: and if our's be in safety there, the others shall be in safety in our land.--(XXXVIII. 35.) If any hold of any escheat, as of the Honour of Wallingford, Boulogne, Nottingham, Lancaster, or of other escheats which are in our hand, and are Baronies, and shall die, his heir shall not give any other relief, nor do any other service to us, than he should have done to the Baron, if those lands had been in the hands of the

Baron; and we will hold it in the same manner that the Baron held it. *Neither will we have, by occasion of any Barony or Escheat, any Escheat, or the custody of any of our men, unless he who held the Barony or Escheat, held otherwise of us in chief.—(XXXIX.) No Free-man shall from henceforth, give or sell any more of his land, but so that of the residue of his lands, the lord of the fee may have the service due to him which belongeth to the fee.*—(XL. 37.) All *Patrons of* Abbies, which are held by charters *of Advowson* from the Kings of England, or by ancient tenure *or possession of the same*, shall have the custody of them when they become vacant, as they ought to have, and such as it hath been declared above.—(XLI. 39.) No man shall be apprehended or imprisoned on the appeal of a woman, for the death of any other man than her husband.—*(XLII.) No County Court, shall, from henceforth be holden, but from month to month; and where a greater term hath been used, it shall be greater. Neither shall any Sheriff or his Bailiff, keep his turn in the hundred but twice in the year; and no where but in due and accustomed place; that is to say, once after Easter, and again after the Feast of Saint Michael. And the view of Frank-pledge shall be likewise at Saint Michael's term, without occasion; so that every man may have his liberties, which he had and was accustomed to have, in the time of King Henry our grandfather, or which he hath since procured him. Also the view of Frank-pledge shall be so done,*

that our peace may be kept, and that the tything may be wholly kept, as it hath been accustomed; and that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his view-making, in the time of King Henry our grandfather.—(XLIII.) It shall not, from henceforth, be lawful for any to give his lands to any Religious House, and to take the same land again to hold of the same house; nor shall it be lawful to any House of Religion to take the lands of any, and to lease the same to him from whom they were received. Therefore, if any from henceforth do give his land to any Religious House, and thereupon be convict, his gift shall be utterly void, and the land shall accrue to the Lord of the fee.—(XLIV.) Scutage from henceforth shall be taken as it was accustomed to be taken in the time of King Henry our grandfather.—(XLV. 41.) Also all those customs and liberties aforesaid, which we have granted to be held in our kingdom, for so much of it as belongs to us, all our subjects, as well clergy as laity, shall observe towards their tenants as far as it concerns them.—*(XLVI.) Saving to the Archbishops, Bishops, Abbots, Priors, Templars, Hospitallers, Earls, Barons, and all others, as well ecclesiastical as secular persons, the liberties and free customs which they have formerly had. —(XLVII.) We also ordain by the common Council of our whole kingdom, that all the adulterine castles,—namely those, which from the be-*

ginning of the turbulent war between the Lord John our Father, and his Barons of England—which were built or re-edified, shall be pulled down. But because we have not as yet any seal, we have caused this..... to be sealed with the seals of our Lord the Legate aforesaid, and of the Earl William Marshal, guardian of us and of our kingdom.



THE

THIRD GREAT CHARTER

OF

King Henry the Third;

Granted A.D. 1224-25,

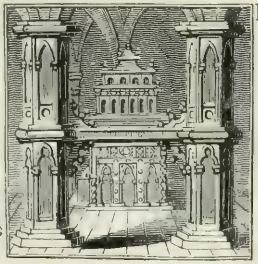
IN THE NINTH YEAR OF HIS REIGN.

Vide the preceding Essay, page 38.

TRANSLATED FROM THE ORIGINAL, PRESERVED IN THE ARCHIVES OF DURHAM CATHEDRAL.

Those parts of the ensuing instrument which are printed in Italics, shew the variations between this Charter and that immediately preceding.

The Roman Numerals divide the Charter into Chapters; and the Arabic figures refer back to the divisions of the second grant of King Henry III. for the purpose of comparison.



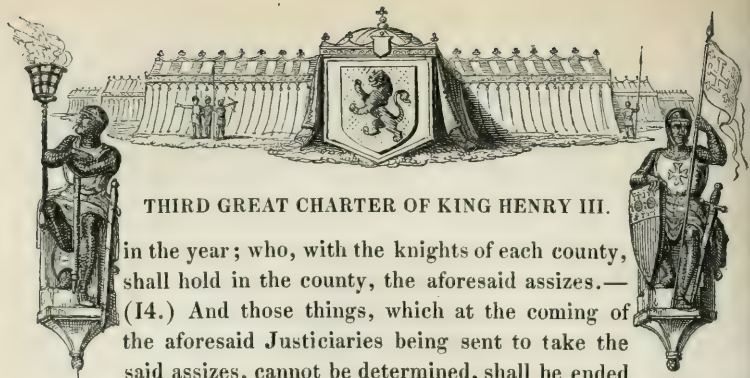
HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Sheriffs, Governors, Officers, and all Bailiffs, and his faithful subjects, who see this present Charter,—Greeting. Know ye, that in the presence of God, and for the salvation of our own soul, and of the souls of our ancestors, and of our successors, to the exaltation of the Holy Church, and the amendment of our kingdom, that

we *spontaneously and of our own free will, do give and grant to the Archbishops, the Bishops, Abbots, Priors, Earls, Barons, and all of our kingdom,* —these under-written liberties to be held in our realm of England for ever.—(I. 1.) In the first place we grant unto God, and by this our present Charter we have confirmed for us, and for our heirs for ever, that the English Church shall be free, and shall have her whole rights and her liberties inviolable. We have also granted to all the freemen of our kingdom, for us and for our heirs for ever, all the under-written liberties to be *had and* held by them and by their heirs, of us and of our heirs.—(II. 2.) If any of our Earls or Barons, or others who hold of us in chief by Military Service, shall die, and at his death his heir shall be of full age, and shall owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, a whole Earl's Barony for one hundred pounds: the heir or heirs of a Baron, a whole Barony, for one hundred pounds; the heir or heirs of a Knight, a whole Knight's Fee, for one hundred shillings at the most: and he who owes less, shall give less, according to the ancient customs of fees.—(III. 3.) But if the heir of any such be under age, his Lord shall not have the Wardship of him nor of his land, before he shall have received his homage, and afterward such heir shall be in ward; and when he shall come to age, that is to say, to twenty and one years, he

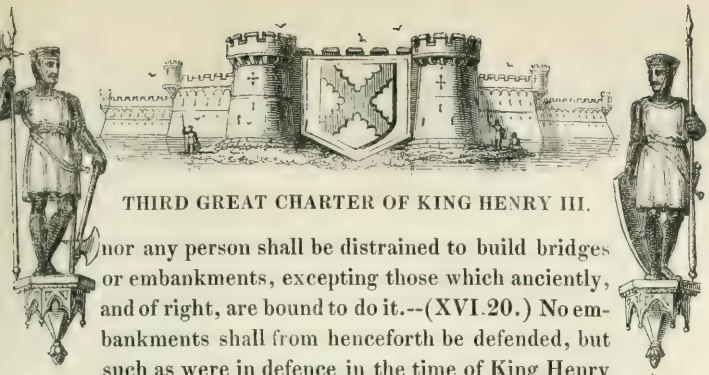
shall have his inheritance without relief and without fine: yet so, that if he be made a Knight, whilst he is under age, his lands shall nevertheless remain in custody of his Lords, until the term aforesaid.—(IV. 4.) The warden of the land of such heir who shall be under age, shall not take from the lands of the heir any but reasonable issues, and reasonable customs, and reasonable services, and that without destruction and waste of the men or goods. And if we commit the custody of any such lands to a Sheriff, or to any other person who is bound to us for the issues of them, and he shall make destruction or waste upon the ward-lands, we will recover damages from him, and the lands shall be committed to two lawful and discreet men of the same fee, who shall answer for the issues to us, or to him to whom we have assigned them: and if we shall give or sell to any one the custody of any such lands, and he shall make destruction or waste upon them, he shall lose the custody; and it shall be committed to two lawful and discreet men of the same fee, who shall answer to us in like manner as it is said before.—(V. 5.) But the warden, as long as he hath the custody of the lands, shall keep up and maintain the houses, parks, warrens, ponds, mills, and other things belonging to them, out of their issues; and shall restore to the heir, when he comes of full age, his whole estate, provided with carriages and all other things, at the least such as he received it. All these things shall be observed

in the custodies of vacant Archbishoprics, Bishoprics, Abbies, Priories, Churches, and Dignities, which appertain to us; excepting that these wardships are not to be sold.—(VI. 6.) Heirs shall be married without disparagement.—(VII. 7.) A widow, after the death of her husband, shall immediately, and without difficulty, have her freedom of marriage and her inheritance; nor shall she give any thing for her dower, or for her freedom of marriage, or for her inheritance, which her husband and she held at the day of his death; and she may remain in the principal messuage of her husband, for forty days after her husband's death, within which time her dower shall be assigned; unless it shall have been assigned before, or excepting his house shall be a Castle; and if she depart from the Castle, there shall be provided for her a complete house in which she may decently dwell, until her dower shall be assigned to her as aforesaid: and she shall have her reasonable Estover within a common term. And for her dower, shall be assigned to her the third part of all the lands of her husband, which were his during his life, except she were endowed with less at the church door.—(8.) No widow shall be distrained to marry herself, whilst she is willing to live without a husband; but yet she shall give security that she will not marry herself, without our consent, if she hold of us, or without the consent of her lord if she hold of another.—(VIII. 9.) We nor our Bailiffs, will

not seize any land or rent for any debt, whilst the chattels of the debtor present sufficient for the payment of the debt, and the debtor shall be ready to make satisfaction: nor shall the sureties of the debtor be distrained, whilst the principal debtor is able to pay the debt; and if the principal debtor fail in payment of the debt, not having wherewith to discharge it, or will not discharge it when he is able, then the sureties shall answer for the debt; and if they be willing, they shall have the lands and rents of the debtor, until satisfaction be made to them for the debt which they had before paid for him, unless the principal debtor can shew himself acquitted thereof against the said sureties. —(IX. 10.) The City of London shall have all it's ancient liberties, and it's free customs, as well by land as by water.—Furthermore, we will and grant that all other Cities, and Burghs, and Towns, and the Barons of the Cinque Ports, and all Ports, should have all their liberties and free customs.—(X. 11.) None shall be distrained to do more service for a Knight's-Fee, nor for any other free tenement, than what is due from thence.--(XI. 12.) Common Pleas shall not follow our court, but shall be held in any certain place.—(XII. 13.) Trials upon the Writs of Novel Disseisin and of Mort d'Ancestre, shall not be taken but in their proper counties, and in this manner:—We, or our Chief Justiciary, if we should be out of the kingdom, will send Justiciaries into every county, once



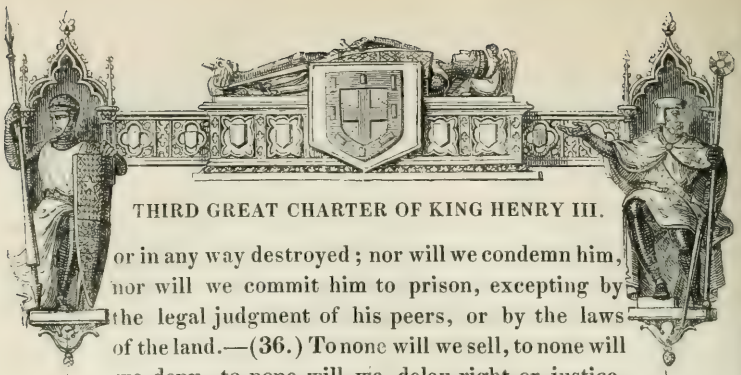
in the year; who, with the knights of each county, shall hold in the county, the aforesaid assizes.—(14.) And those things, which at the coming of the aforesaid Justiciaries being sent to take the said assizes, cannot be determined, shall be ended by them in some other place in their circuit; and those things which for difficulty of some of the articles cannot be determined by them, shall be determined by our Justiciaries of the Bench, and there shall be ended.—(XIII. 15.) Assizes of Last Presentation shall always be taken before our Justiciaries of the Bench, and there shall be determined. —(XIV. 16.) A Free-man shall not be amerced for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his contenement: and a Merchant in the same manner, saving his merchandise, and a villain, if he belong to another, shall be amerced after the same manner, saving to him his Wainage, if he shall fall into our mercy; and none of the aforesaid amerciaments shall be assessed, but by the oath of honest and lawful men of the vicinage.—(17.) Earls and Barons shall not be amerced but by their Peers, and that only according to the degree of their delinquency.—(18.) No Ecclesiastical person shall be amerced according to the quantity of his ecclesiastical benefice, but according to the quantity of his lay-fee, and the extent of his crime.—(XV. 19.) Neither a town



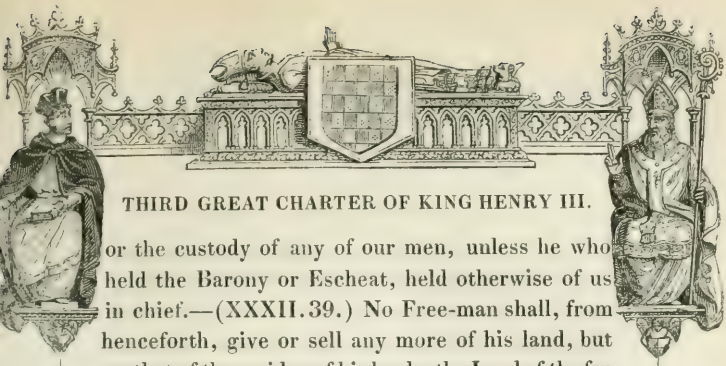
nor any person shall be distrained to build bridges or embankments, excepting those which anciently, and of right, are bound to do it.--(XVI.20.) No embankments shall from henceforth be defended, but such as were in defence in the time of King Henry our grandfather; by the same places, and the same bounds as they were accustomed to be in his time. —(XVII. 21.) No Sheriff, Constable, Coroners, nor other of our Bailiffs, shall hold pleas of our crown.—(XVIII. 22.) If any one holding of us a lay-fee die, and the Sheriff or our Bailiff shall shew our letters-patent of summons concerning the debt, which the defunct owed to us, it shall be lawful for the Sheriff, or for our Bailiff to attach and register all the goods and chattels of the defunct found on that lay-fee, to the amount of that debt by the view of lawful men. So that nothing shall be removed from thence until our debt be paid to us; and the rest shall be left to the executors to fulfil the will of the defunct; and if nothing be owing to us by him, all the chattels shall fall to the defunct, saving to his wife and children their reasonable shares.—(XIX. 23.) No Constable, nor his Bailiff, shall take the corn or other goods of any one, who is not of that town where his Castle is, without instantly paying money for them, unless he can obtain a respite from the free will of the seller; but if he be of that town wherein the Castle is, he shall give him the price within forty days.—(XX. 24.) No Constable shall dis-

train any Knight to give him money for Castle-guard, if he be willing to perform it in his own person, or by another able man, if he cannot perform it himself, for a reasonable cause: and if we do lead or send him into the army, he shall be excused from Castle-guard, according to the time that he shall be with us in the army, on account of the fee for which he hath done service in the host.—(XXI. 25.) No Sheriff nor Bailiff of our's, nor of any other person, shall take the horses or carts of any, for the purpose of carriage, without paying according to the rate anciently appointed; that is to say, for a cart with two horses, ten-pence by the day, and for a cart with three horses, fourteen-pence by the day.—(26.) No demesne cart of any ecclesiastical person, or knight, or of any lord, shall be taken by the aforesaid Bailiffs.—(27.) Neither we, nor our Bailiffs, nor those of another, shall take another man's wood, for our Castles or for other uses, unless by the consent of him to whom the wood belongs.—(XXII. 28.) We will not retain the lands of those who have been convicted of felony, excepting for one year and one day, and then they shall be given up to the Lords of the fees.—(XXIII. 29.) All Kydells (wears) for the future, shall be quite removed out of the Thames and the Medway, and through all England, excepting upon the sea coast.—(XXIV. 30.) The Writ which is called Præcipe, for the future shall not be granted to any one of any tenement, by which a Free-man loses

his court.—(XXV. 31.) There shall be one Measure of Wine throughout all our kingdom, and one Measure of Ale, and one Measure of Corn, namely, the Quarter of London; and one breadth of Dyed Cloth, of Russets, and of Halberjects, namely, Two Ells within the lists. Also it shall be the same with Weights as with Measures.—(XXVI. 32.) Nothing shall for the future be given or taken for a Writ of Inquisition, nor taken of him that prayeth Inquisition of life or limb; but it shall be given without charge, and not denied.—(XXVII. 33.) If any hold of us by Fee-Farm, or Socage, or Burgage, and hold land of another by Military Service, we will not have the custody of the heir, nor of his lands, which are of the fee of another, on account of that Fee-Farm, or Socage, or Burgage; nor will we have the custody of the Fee-Farm, Socage, or Burgage, unless the Fee-Farm owe Military Service. We will not have the custody of the heir, nor of the lands of any one, which he holds of another by Military Service, on account of any Petty-Sergeantry which he holds of us, by the service of giving us daggers, or arrows, or the like.—(XXVIII. 34.) No Bailiff, for the future, shall put any man to his open law, nor to an oath, upon his own simple affirmation, without faithful witnesses produced for that purpose.—(XXIX. 35.) No Free-man shall be taken, or imprisoned, or dispossessed, of his free tenement, or liberties, or free customs, or be outlawed, or exiled,



or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.—(36.) To none will we sell, to none will we deny, to none will we delay right or justice. —(XXX. 37.) All Merchants, unless they have before been publicly prohibited, shall have safety and security in going out of England, and in coming into England, and in staying and in travelling through England, as well by land as by water, to buy and sell, without any unjust exactions, according to ancient and right customs, excepting in the time of war, and if they be of a country at war against us: and if such are found in our land at the beginning of a war, they shall be apprehended, without injury of their bodies or goods, until it be known to us, or to our Chief Justiciary, how the Merchants of our country are treated who are found in the country at war against us: and if our's be in safety there, the others shall be in safety in our land.—(XXXI. 38.) If any hold of any Escheat, as of the Honour of Wallingford, Boulogne, Nottingham, Lancaster, or of other Escheats which are in our hand, and are Baronies, and shall die, his heir shall not give any other relief, nor do any other service to us, than he should have done to the Baron, if those lands had been in the hands of the Baron; and we will hold it in the same manner that the Baron held it. Neither will we have, by occasion of any Barony or Escheat, any Escheat,



or the custody of any of our men, unless he who held the Barony or Escheat, held otherwise of us in chief.—(XXXII. 39.) No Free-man shall, from henceforth, give or sell any more of his land, but so that of the residue of his lands, the Lord of the fee may have the service due to him which belongeth to the fee.—(XXXIII. 40.) All Patrons of Abbies, which are held by Charters of Advowson from the Kings of England, or by ancient tenure or possession of the same, shall have the custody of them when they become vacant, as they ought to have, and such as it hath been declared above.--(XXXIV. 41.) No man shall be apprehended or imprisoned on the appeal of a woman, for the death of any other man than her husband.--(XXXV. 42.) No County Court shall, from henceforth, be holden but from month to month; and where a greater term hath been used, it shall be greater. Neither shall any Sheriff or his Bailiff, keep his turn in the hundred but twice in the year; and no where but in due and accustomed place; that is to say, once after Easter, and again after the Feast of Saint Michael. And the view of Frank-pledge shall be likewise at Saint Michael's term, without occasion; so that every man may have his liberties, which he had and was accustomed to have, in the time of King Henry our grandfather, or which he hath since procured him. Also the view of Frank-pledge shall be so done, that our peace may be kept, and that the tything may be wholly kept, as it hath been accustomed;

and that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his view-making, in the time of King Henry our grandfather.—(XXXVI. 43.) It shall not from henceforth, be lawful for any to give his lands to any Religious House, and to take the same land again to hold of the same House. Nor shall it be lawful to any House of Religion to take the lands of any, and to lease the same to him from whom they were received. Therefore, if any from henceforth do give his land to any Religious House, and thereupon be convict, his gift shall be utterly void, and the land shall accrue to the Lord of the fee.—(XXXVII. 44.) Scutage from henceforth shall be taken as it was accustomed to be taken in the time of King Henry our grandfather.—(46.) Saving to the Archbishops, Bishops, Abbots, Priors, Templars, Hospitallers, Earls, Barons, and all others, as well ecclesiastical as secular persons, the liberties and free customs which they have formerly had.—(45.) Also all those customs and liberties aforesaid, which we have granted to be held in our kingdom, for so much of it as belongs to us, all our subjects, as well clergy as laity, shall observe towards their tenants as far as concerns them.—*And for this our grant and gift of these Liberties, and of the others contained in our Charter of Liberties of our Forest, the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Free Tenants, and all others of our King-*

dom, have given unto us the fifteenth part of all their moveables. And we have granted to them for us and our heirs, that neither we nor our heirs shall procure or do any thing, whereby the Liberties in this Charter contained shall be infringed or broken; and if any thing shall be procured by any person contrary to the premises, it shall be had of no force nor effect. These being witnesses, the Lord Stephen Archbishop of Canterbury, Roger of London, Joceline of Bath, Peter of Winchester, Hugh of Lincoln, Richard of Salisbury, Benedict of Rochester, William of Worcester, John of Ely, Hugh of Hereford, Ralph of Chichester, William of Exeter, for the Bishops: the Abbot of Saint Edmund's, the Abbot of Saint Alban's, the Abbot of Battle Abbey, the Abbot of Saint Augustine's Canterbury, the Abbot of Evesham, the Abbot of Westminster, the Abbot of Peterborough, the Abbot of Reading, the Abbot of Abingdon, the Abbot of Malmsbury, the Abbot of Winchcomb, the Abbot of Hyde, the Abbot of Chertsey, the Abbot of Sherburn, the Abbot of Cerne, the Abbot of Abbotsbury, the Abbot of Middleton, the Abbot of Selby, the Abbot of Whitby, the Abbot of Cirencester, Hubert de Burgh, the King's Justiciary, Randolph Earl of Chester and Lincoln, William Earl of Salisbury, William Earl of Warren, Gilbert de Clare, Earl of Gloucester and Hertford, William de Ferrers, Earl of Derby, William de Mandeville, Earl of Essex, Hugh le Bigod, Earl of Nor-

folk, William Earl of Albemarle, Humphrey Earl of Hereford, John Constable of Chester, Robert de Ros, Robert Fitz Walter, Robert de Vipont, William de Brewer, Richard de Montfichet, Peter Fitz Herbert, Matthew Fitz Herbert, William de Albiniac, Robert Gresley, Reginald de Bruce, John de Monmouth, John Fitz Alan, Hugh de Mortimer, Walter de Beauchamp, William de Saint John, Peter de Mauley, Brian de Lisle, Thomas de Muleton, Richard de Argentine, Walter de Neville, William Mauduit, John de Baalun.—Given at Westminster, the Eleventh day of February, in the Ninth Year of our Reign.

A Fourth Charter of Liberties, alluded to on page 39 of the foregoing Essay, was granted by King Henry III. in the 36th year of his Reign, namely, 1251-52; which is preserved in the Cottonian Collection of Manuscripts, and a particular description of it will be found on a future page of this Volume. The variations between this Instrument and that above given are chiefly verbal, or else errors of the Scribe; but in few cases would they bear any different translation into English: which remark, however, will apply more or less to the whole series of Charters now printed, as their various readings, so carefully noted by Sir William Blackstone, and the Editors of the Parliamentary Record Publications, alter the Latin words of the sentence, but cause no difference in the English. There is however in this fourth Charter of King Henry III., a singular deviation from the foregoing Instruments; that of ordaining an hundred marks as the relief of a Barony, instead of one hundred pounds; this particular will be found considered and explained in the Notes to the several Charters of Liberties.

THE

FIRST GREAT CHARTER

OF

King Edward the First;

Granted October 12th, 1297,

IN THE TWENTY-FIFTH YEAR OF HIS REIGN.

Vide the preceding Essay, page 41.

TRANSLATED FROM THE ORIGINAL, PRESERVED IN THE ARCHIVES OF THE CITY OF LONDON.

Those parts of the ensuing instrument which are printed in Italics, shew the variations between this Charter and that immediately preceding.

The Roman Numerals divide the Charter into Chapters; and the Arabic Figures refer back to the divisions of the third grant of King Henry III. for the purpose of comparison.



EDWARD, by the Grace of God, King of England, Lord of Ireland, Duke of Aquitaine, *To all to whom these present letters shall come*, —Greeting. *We have examined the Great Charter of the Lord Henry, late King of England, our father, containing the Liberties of England in these words:*— HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Sheriffs, Governors,

Officers, and all Bailiffs, and his faithful subjects, who see this present Charter,—Greeting. Know ye, that in the presence of God, and for the salvation of our own soul, and of the souls of our ancestors, and of our successors, to the exaltation of the Holy Church, and the amendment of our kingdom, we spontaneously and of our own free will, do give and grant to the Archbishops, the Bishops, Abbots, Priors, Earls, Barons, and all of our kingdom,—these under-written liberties to be held in our realm of England for ever.—(I. 1.) In the first place we have granted unto God, and by this our present Charter we have confirmed for us, and for our heirs for ever, that the Church of England shall be free, and shall have her whole rights and her liberties inviolable. We have also granted and given to all the freemen of our kingdom, for us and for our heirs for ever, these under-written liberties to be had and held by them and by their heirs, of us and of our heirs.—(II. 2.) If any of our Earls or Barons, or others who hold of us in chief by Military Service, shall die, and at his death his heir shall be of full age, and shall owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, a whole Earldom for one hundred pounds: the heir or heirs of a Baron, a whole Barony, for one hundred *marks;* the heir or heirs of a Knight, a whole Knight's Fee, for one hundred shillings at the most: and he who hath less, shall give less, according to

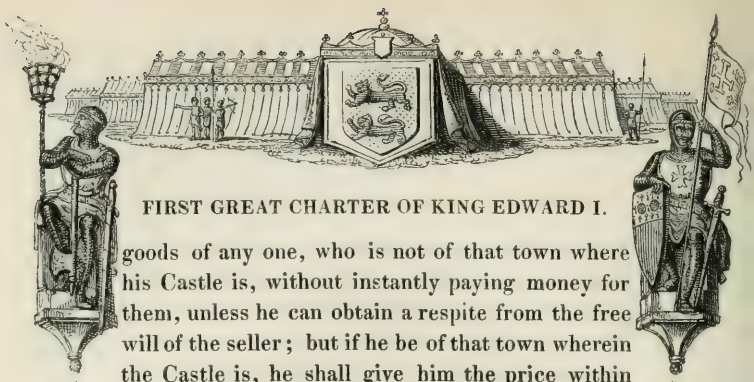
the ancient customs of fees.—(III. 3.) But if the heir of any such be under age, his Lord shall not have the wardship of him nor of his land, before he shall have received his homage, and afterward such heir shall be in ward; and when he shall come to age, that is to say, to twenty and one years, he shall have his inheritance without relief and without fine: yet so, that if he be made a Knight, whilst he is under age, his lands shall nevertheless remain in custody of his Lords, until the term aforesaid.—(IV. 4.) The warden of the land of such heir who shall be under age, shall not take from the lands of the heir any but reasonable issues, and reasonable customs, and reasonable services, and that without destruction and waste of the men or goods. And if we commit the custody of any such lands to a Sheriff, or to any other person who is bound to us for the issues of them, and he shall make destruction or waste upon the ward-lands, we will recover damages from him, and the lands shall be committed to two lawful and discreet men of the same fee, who shall answer for the issues to us, or to him to whom we have assigned them: and if we shall give or sell to any one the custody of any such lands, and he shall make destruction or waste upon them, he shall lose the custody; and it shall be committed to two lawful and discreet men of the same fee, who shall answer to us in like manner as it is said before.—(V. 5.) But the warden, so long as he hath the custody of the lands, shall keep up

and maintain the houses, parks, warrens, ponds, mills, and other things belonging to them, out of their issues; and shall restore to the heir, when he comes of full age, his whole estate, provided with carriages and all other things, at the least such as he received it. All these things shall be observed in the custodies of vacant Archbishoprics, Bishoprics, Abbies, Priories, Churches, and Dignities, which appertain to us; excepting that these wardships are not to be sold.—(VI. 6.) Heirs shall be married without disparagement.—(VII. 7.) A widow, after the death of her husband, shall immediately, and without difficulty, have her freedom of marriage and her inheritance; nor shall she give any thing for her dower, or for her freedom of marriage, or for her inheritance, which her husband and she held at the day of his death; and she may remain in the principal messuage of her husband, for forty days after her husband's death, within which time her dower shall be assigned; unless it shall have been assigned before, or excepting his house shall be a Castle; and if she depart from the Castle, there shall be provided for her a complete house in which she may decently dwell, until her dower shall be assigned to her as aforesaid: and she shall have her reasonable Estover within a common term. And for her dower, shall be assigned to her the third part of all the lands of her husband, which were his during his life, except she were endowed with less at the church door.

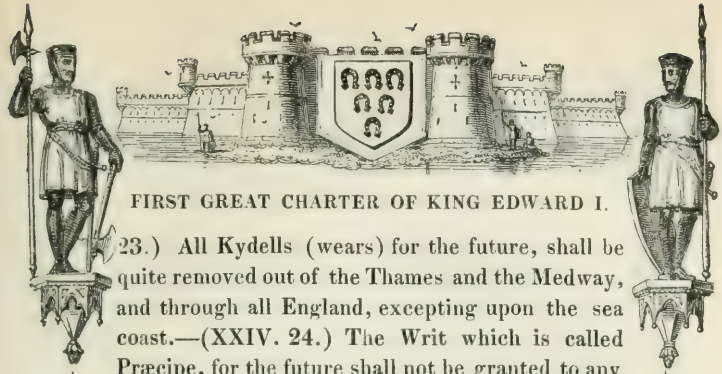
— No widow shall be distrained to marry herself, whilst she is willing to live without a husband; but yet she shall give security that she will not marry herself, without our consent, if she hold of us, or without the consent of her lord if she hold of another.—(VIII. 8.) We nor our Bailiffs, will not seize any land or rent for any debt, whilst the chattels of his debtor present sufficient for the payment of the debt, and the debtor shall be ready to make satisfaction. Nor shall the sureties of the debtor be distrained, whilst the principal debtor is able to pay his debt; and if the principal debtor fail in payment of the debt, not having wherewith to discharge it, or will not discharge it when he is able, then the sureties shall answer for the debt; and if they be willing, they shall have the lands and rents of the debtor, until satisfaction be made to them for the debt which they had before paid for him, unless the principal debtor can shew himself acquitted thereof against the said sureties. —(IX. 9.) The City of London shall have all it's ancient liberties, and it's free customs, as well by land as by water.—Furthermore, we will and grant that all other Cities, and Burghs, and Towns, and the Barons of the Cinque Ports, and all Ports, should have all their liberties and free customs.—(X. 10.) None shall be distrained to do more service for a Knight's-Fee, nor for any other free tenement, than what is due from thence.--(XI. 11.) Common Pleas shall not follow our court, but

shall be held in any certain place.—(XII. 12.) Trials upon the Writs of Novel Disseisin and of Mort d'Ancestre, shall not be taken but in their proper counties, and in this manner:—We, or our Chief Justiciary, if we should be out of the kingdom, will send Justiciaries into every county, once in the year; who, with the knights of each county, shall hold in the county, the aforesaid assizes.—And those things, which at the coming of our aforesaid Justiciaries being sent to take the said assizes, cannot be determined, shall be ended by them in some other place in their circuit; and those things which for difficulty of some of the articles cannot be determined by them, shall be determined by our Justiciaries of the Bench, and there shall be ended.—(XIII. 13.) Assizes of Last Presentation shall always be taken before our Justiciaries of the Bench, and there shall be determined. —(XIV. 14.) A Free-man shall not be amerced for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his contenement: and a Merchant in the same manner, saving his merchandise, and a villain, if he belong to another, shall be amerced after the same manner, saving to him his Wainage, if he shall fall into our mercy; and none of the aforesaid amerciaments shall be assessed, but by the oath of honest and lawful men of the vicinage. —Earls and Barons shall not be amerced but

by their Peers, and that only according to the degree of their delinquency. — No Ecclesiastical person shall be amerced according to the quantity of his ecclesiastical benefice, but according to the quantity of his lay-fee, and the extent of his crime.—(XV. 15.) Neither a town nor any person shall be distrained to build bridges or embankments, excepting those which anciently, and of right, are bound to do it.--(XVI.16.) No embankments shall from henceforth be defended, but such as were in defence in the time of King Henry our grandfather; by the same places, and the same bounds as they were accustomed to be in his time. —(XVII. 17.) No Sheriff, Constable, Coroners, nor other of our Bailiffs, shall hold pleas of our crown.—(XVIII. 18.) If any one holding of us a lay-fee die, and the Sheriff or our Bailiff shall shew our letters-patent of summons concerning the debt, which the defunct owed to us, it shall be lawful for the Sheriff, or for our Bailiff to attach and register all the goods and chattels of the defunct found on that lay-fee, to the amount of that debt by the view of lawful men. So that nothing shall be removed from thence until our debt be paid to us; and the rest shall be left to the executors to fulfil the will of the defunct; and if nothing be owing to us by him, all the chattels shall fall to the defunct, saving to his wife and children their reasonable shares.—(XIX. 19.) No Constable, Governor, nor his Bailiff, shall take the corn or other



goods of any one, who is not of that town where his Castle is, without instantly paying money for them, unless he can obtain a respite from the free will of the seller; but if he be of that town wherein the Castle is, he shall give him the price within forty days.—(XX. 20.) No Constable shall distrain any Knight to give him money for Castle-guard, if he be willing to perform it in his own person, or by another able man, if he cannot perform it himself, for a reasonable cause: and if we do lead or send him into the army, he shall be excused from Castle-guard, according to the time that he shall be with us in the army, on account of the fee for which he hath done service in the host.—(XXI. 21.) No Sheriff nor Bailiff of our's, nor of any other person, shall take the horses or carts of any, for the purpose of carriage, without paying according to the rate anciently appointed; that is to say, for a cart with two horses, ten-pence by the day, and for a cart with three horses, fourteen-pence by the day.—No demesne cart of any ecclesiastical person, or knight, or of any lord, shall be taken by our bailiffs.—Neither we, nor our Bailiffs, nor those of another, shall take another man's wood, for our Castles or for other uses, unless by the consent of him to whom the wood belongs.—(XXII. 22.) We will not retain the lands of those who have been convicted of felony, excepting for one year and one day, and then they shall be given up to the Lords of the fees.—(XXIII.



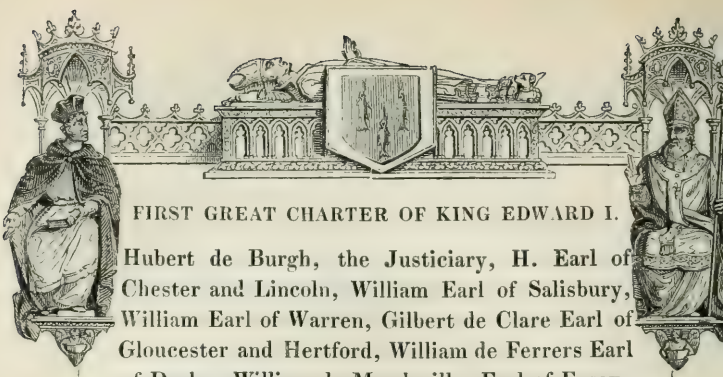
23.) All Kydells (wears) for the future, shall be quite removed out of the Thames and the Medway, and through all England, excepting upon the sea coast.—(XXIV. 24.) The Writ which is called Præcipe, for the future shall not be granted to any one of any tenement, by which a Free-man loses his court.—(XXV. 25.) There shall be one Measure of Wine throughout all our kingdom, and one Measure of Ale, and one Measure of Corn, namely, the Quarter of London; and one breadth of Dyed Cloth, of Russets, and of Halberjects, namely, Two Ells within the lists. Also it shall be the same with Weights as with Measures.—(XXVI. 26.) Nothing shall for the future be given or taken for a Writ of Inquisition, nor taken of him that prayeth Inquisition of life or limb; but it shall be given without charge, and not denied.—(XXVII.27.) If any hold of us by Fee-Farm, or Socage, or Burgage, and hold land of another by Military Service, we will not have the custody of the heir, nor of his lands, which are of the fee of another, on account of that Fee-Farm, or Socage, or Burgage; nor will we have the custody of the Fee-Farm, Socage, or Burgage, unless the Fee-Farm owe Military Service. We will not have the custody of the heir, nor of the lands of any one, which he holds of another by Military Service, on account of any Petty-Sergeantry which he holds of us, by the service of giving us daggers, or arrows, or the like.—(XXVIII. 28.) No Bailiff, for the fu-

ture, shall put any man to his open law, nor to an oath, upon his own simple affirmation, without faithful witnesses produced for that purpose.—(XXIX. 29.) No Free-man shall be taken, or imprisoned, or dispossessed, of his free tenement, or liberties, or free customs, or be outlawed, or exiled, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.—To none will we sell, to none will we deny, to none will we delay right or justice.—(XXX. 30.) All Merchants, unless they have before been publicly prohibited, shall have safety and security in going out of England, and in coming into England, and in staying and in travelling through England, as well by land as by water, to buy and sell, without any unjust exactions, according to ancient and right customs, excepting in the time of war, and if they be of a country at war against us: and if such are found in our land at the beginning of a war, they shall be apprehended, without injury of their bodies or goods, until it be known to us, or to our Chief Justiciary, how the Merchants of our country are treated who are found in the country at war against us: and if our's be in safety there, the others shall be in safety in our land.—(XXXI. 31.) If any hold of any Escheat, as of the Honour of Wallingford, Boulogne, Nottingham, Lancaster, or of other Escheats which are in our hand, and are Baronies, and shall die, his

heir shall not give any other relief, nor do any other service to us, than he should have done to the Baron, if those lands had been in the hands of the Baron; and we will hold it in the same manner that the Baron held it. Neither will we have, by occasion of any Barony or Escheat, any Escheat, or the custody of any of our men, unless he who held the Barony or Escheat, held otherwise of us in chief.—(XXXII. 32.) No Free-man shall, from henceforth, give or sell any more of his land, but so that of the residue of his lands, the Lord of the fee may have the service due to him which belongeth to the fee.—(XXXIII. 33.) All Patrons of Abbies, which are held by Charters of Advowson from the Kings of England, or by ancient tenure or possession of the same, shall have the custody of them when they become vacant, as they ought to have, and such as it hath been declared above.--(XXXIV. 34.) No man shall be apprehended or imprisoned on the appeal of a woman, for the death of any other man than her husband.--(XXXV. 35.) No County Court shall, from henceforth, be holden but from month to month; and where a greater term hath been used, it shall be greater. Neither shall any Sheriff or his Bailiff, keep his turn in the Hundred but twice in the year; and no where but in due and accustomed place; that is to say, once after Easter, and again after the Feast of Saint Michael. And the view of Frank-pledge shall be likewise at Saint Michael's term, without occasion; so that every

man may have his liberties, which he had and was accustomed to have, in the time of King Henry our grandfather, or which he hath since procured him. Also the view of Frank-pledge shall be so done, that our peace may be kept, and that the tything may be wholly kept, as it hath been accustomed; and that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his view-making, in the time of King Henry our grandfather.—(XXXVI. 36.) It shall not, from henceforth, be lawful for any to give his lands to any Religious House, and to take the same land again to hold of the same House. Nor shall it be lawful to any House of Religion to take the lands of any, and to lease the same to him from whom they were received. Therefore, if any from henceforth do give his land to any Religious House, and thereupon be convict, his gift shall be utterly void, and the land shall accrue to the Lord of the fee.—(XXXVII. 37.) Scutage from henceforth shall be taken, as it was accustomed to be taken in the time of King Henry our grandfather.—(46.) Saving to the Archbishops, Bishops, Abbots, Priors, Templars, Hospitallers, Earls, Barons, and all others, as well ecclesiastical as secular persons, all the liberties and free customs which they have formerly had.—Also all those customs and liberties aforesaid, which we have granted to be held in our kingdom, for so much of it as belongs to us, all our subjects, as well clergy as

lnity, shall observe towards their tenants as far as concerns them.—And for this our grant and gift of these Liberties, and of the others contained in our Charter of Liberties of our Forest, the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Free Tenants, and all others of our Kingdom, have given unto us the fifteenth part of all their moveables. And we have granted to them for us and our heirs, that neither we nor our heirs shall procure or do any thing, whereby the Liberties in this Charter contained, shall be infringed or broken; and if any thing shall be procured by any person contrary to the premises, it shall be had of no force nor effect. These being witnesses, the Lord Stephen, Archbishop of Canterbury, Eustace Bishop of London, Joceline Bishop of Bath, Peter of Winchester, Hugh of Lincoln, Richard of Salisbury, W. of Rochester, William of Worcester, John of Ely, Hugh of Hereford, Ralph of Chichester, William of Exeter, for the Bishops: the Abbot of Saint Edmund's, the Abbot of Saint Alban's, the Abbot of Battle Abbey, the Abbot of Saint Augustine's Canterbury, the Abbot of Evesham, the Abbot of Westminster, the Abbot of Peterborough, the Abbot of Reading, the Abbot of Abingdon, the Abbot of Malmsbury, the Abbot of Winchcomb, the Abbot of Hyde, the Abbot of Chertsey, the Abbot of Sherburn, the Abbot of Cerne, the Abbot of Abbotsbury, the Abbot of Middleton, the Abbot of Selby, the Abbot of Whitby, the Abbot of Cirencester,



Hubert de Burgh, the Justiciary, H. Earl of Chester and Lincoln, William Earl of Salisbury, William Earl of Warren, Gilbert de Clare Earl of Gloucester and Hertford, William de Ferrers Earl of Derby, William de Mandeville, Earl of Essex, Hugh le Bigod, Earl of Norfolk, William Earl of Albemarle, Humphrey Earl of Hereford, John, Constable of Chester, Robert de Ros, Robert Fitz Walter, Robert de Vipont, William de Brewer, Richard de Montfichet, Peter Fitz Herbert, William de Albiniac, F. Gresley, F. de Bruce, John de Monmouth, John Fitz Alan, Hugh de Mortimer, Walter de Beauchamp, William de Saint John, Peter de Mauley, Brian de Lisle, Thomas de Muleton, Richard de Argentine, Walter de Neville, William Mauduit, John de Baalun.—Given at Westminster, the Eleventh day of February, in the Ninth Year of our Reign.

We, ratifying and approving these gifts and grants aforesaid, confirm and make strong all the same for us and our heirs perpetually, and by tenor of these presents do renew the same: willing and granting for us and our heirs, that the Charter aforesaid, in all and singular its articles for ever, shall be steadfastly and inviolably observed; and even although any article in the same Charter contained, yet hitherto hath peradventure not been kept. In witness whereof we have caused these our Letters Patents to be made. Witness, Edward our son, at Westminster, the Twelfth day of October, in the Twenty-eighth year of our reign.

EXPLANATORY NOTES

ON THE FOREGOING

Collection of Charters of Liberties.

The numbers which are added to the beginning of each Chapter refer to the various pages of the foregoing Articles and Charters, where that Chapter occurs.



HE ensuing series of Notes embraces not only the Great Charter of King John, but, as it is formed upon the usual plan of the Statute Books, of dividing the respective instruments into Chapters, it considers under each division the various additions and alterations which every one of them has undergone by the grants of succeeding Sovereigns. To explain at full the historical character of the ancient Liberties which they contain, would of course occupy many extensive volumes: so that all which can be effected by the following brief commentary, is to give firstly the reason for the freedom declared in the section, and secondly the nature of that freedom; whilst in every note will be inserted the names of the authorities which have been consulted upon the subject, in which will be found a number of references for the satisfaction of such as desire to make a farther enquiry.

Pages 63, 105, 118, 131, 145. Introduction.

JOHN BY THE GRACE OF GOD, KING OF ENGLAND.

In this Introduction, which is nearly similar in all the Charters, the King's style is the first remarkable passage. From the collection of Royal Titles given by Sir Edward Coke in his First Institute, Book I. Chap. I. Sect. i. p. 7 a, it may be seen that the Sovereign's style changed only according to the acquisition or alienation of territory; the expression, "by the Grace of God King of the English," or "of all Britain," being extant in the Charters of William Rufus, and even in one of the Saxon King Edwyn, in a grant

dated A. D. 956. King John first adopted the title of Lord of Ireland; his possessions in which had been conquered by his father, who, in 1176, created him King of that country; but the title was not assumed as it is now used, until 1531 by King Henry VIII. The style of Duke of Normandy and Earl of Aquitaine, were brought into the Royal description by Henry II. who held them in the right of Eleanor his Queen. They were disused by Henry III. in 1259; restored again by Edward I.; and finally exchanged, in 1339, by Edward III. for the title of King of France. The address of the Charter is the next particular contained in the Introduction; *To all the Archbishops*, &c. which was the ancient superscription of the Royal Charters until the time of King Richard III., who reduced it to the present form of Letters Patents, "To all to whom these present letters shall come," excepting in the case of Charters of Dignities, which are addressed to the Archbishops, Bishops, Dukes, Marquesses, Earls, &c. The four causes for granting Magna Charta are the next prominent parts of the opening:—the honour of God, the benefit of the King's soul—as a pious action—the exaltation of the Church, and the amendment of the Kingdom. The last expression to be observed is, that the words *Spontaneously and of our own free will*, were first added in the Third Great Charter of King Henry III, vide page 132, because King John endeavoured to avoid the execution of his grant, asserting that it had been extorted from him by force. Vide the preceding Essay, pages 33-34. *Coke.*

CHAPTER I. Pages 65, 106, 119, 132, 146.

The expression to *grant unto God*, with which this section commences, was an ancient legal phrase, employed when any thing was bestowed for the use and maintainance of the Church; since the thing so given was supposed to be granted to God, as it was for his service. King John was the first Sovereign who used the plural pronoun We in his Grants, as all the preceding Monarchs wrote in the first person singular, I.—*Coke.*—*The freedom of the English Church* is the subject of the first Chapter of the Great Charter; for, at it's original indicting, the kingdom of Ireland had no share in this liberty, but by a law enacted

in 1495, the eleventh year of Henry VII., it was decreed, that all previous Statutes of England should be extended into that country. See also a Royal Writ for the extension of the privileges of the Great Charter to Ireland, issued by Henry III. in 1216, page 116 of the preceding Charters. An explanation of the Freedom of the Church, in what it consisted, and an account of the Charter for Ecclesiastical Elections, will be found in a future note. It should be observed, that the Charter says, "the *Church* shall be free," because that cannot die nor pass away, but it's ministers are all liable to death; it therefore fixes these liberties upon a firmer foundation than the life of man only. The clause also adds, that the Church *shall enjoy her whole rights and liberties inviolable*, which is sufficient proof that it was intended only to preserve the privileges it already possessed; "and," adds Lord Coke, "great were sometimes their rights, for they had the third part of the possessions of the Realm, as it is affirmed in a Parliament roll." (4th Rich. II. No. 13.) Indeed the Ecclesiastics before this Charter, were well provided for by the ancient Statutes; in which they were discharged of purveyance of their own goods,[a] of serving in any temporal office, although their possessions caused them to be elected for it, of going out to war, of all tolls and customs on their ecclesiastical property, and, in certain cases, of arrests upon their persons; such were a few of those privileges which this clause restored. The whole of these rights with some others, are still enjoyed by the Clergy of England, see "Ecclesiastical Law," by Dr. Richard Burn; Edit. by S. Fraser, Lond. 1797, Octavo, Vol. III. pages 194-211, Article "Privileges and Restraints of the Clergy." In this Chapter it is to be observed, that the expression *we have granted to all the Freemen of our Kingdom*, includes all persons both Clergy and Laity, in consequence of which it is guarded by the words *under-written liberties*, because the preceding clause concerned the Church alone and was therefore without restraint, in this secular persons had no interest, but claimed only the freedom of the Great Char-

[a] That is to say, having them taken by the King's Purveyors for his service, at a settled price. This was entirely discharged by the 12th Charles II. Cap. xxiv. Sect. 12.

ter. The use of the words *from us and from our heirs*, was to prevent any doubts which might arise as to the stability of this instrument, to engage all the King's successors who were anciently called heirs, and to shew that liberties were at first derived from the crown. *Coke.*

CHAPTER II. Pages 49, 67, 106, 119, 132, 146.

This section of the Great Charter refers to an ancient law connected with Feudal Tenures, by which it was supposed, that the Lord of the estate was the *real* proprietor of all; though the Tenant, whilst he was able to do service for the land, held it in possession and enjoyed it's products. The grants issued by the superior Lord, lasted for life only; and, upon the decease of a Tenant, if his heir were not of an age sufficient to discharge all the services belonging to that fee, or estate, it still remained in the possession of the Chief Lord until he should be able to do so: for, it must be observed, that these services were, for the most part, doing duty in the field. Nor was such an arrangement either unreasonable or unjust, since, in the turbulent ages of Feudal Tenures, it was probably, says Dalrymple,[a] "a favour to the heir and fief, to put them under the protection of the lord, at a time when the heir was incapable of defending either." Hence arose the right of Ward in the Military Tenures both in England and in Scotland; which in the latter nation, about three hundred years since, extended to the exclusion of the uncle or grandfather. At one period in Britain, the property returned entirely to the superior Lord, to re-grant or retain as he thought proper; but afterwards the heir was supposed to have some interest of succession, yet not an absolute one, nor could he easily have enforced it had he possessed even the right. In consequence of this, therefore, heirs were contented to pay an acknowledgment to their Lord for entering upon their estates; and hence arose the service of Reliefs, which it is the object of this division of the Great Charter to regulate.

The present Chapter, which has remained unaltered from the Charter of King John, in 1215, first provides for

[a] Essay towards a General History of Feudal Property in Great Britain, Lond. 1757, 8vo. p. 43.

the Reliefs to be paid by the Peers of England; and in so doing, it evinces that Earl was the highest title then existing. The first Duke since the Conquest, was Edward the Black Prince, created Duke of Cornwall in the year 1337, by a Charter, bearing date the 17th day of March. The first Marquis was Robert de Vere, Earl of Oxford, who was created Marquis of Dublin in the year 1384; and the first Viscount who sat in Parliament by that title, was John Beaumont, who was made Viscount Beaumont in the year 1439. The dignity of Barons, which is next in order in the clause, comprehends the whole of the Nobility, and the great Council of the Nobility.

Having mentioned the Peers, the Charter goes on to protect a degree, which, for the most part, was equal with them, such as *held of the King in Chief by Military Service*. A Tenant *in capite*, or chief, is when any one possesses a lordship immediately from the King himself, in right of his crown and dignity without any intervening Lord; and Military, or Knight's Service, is to possess lands either from the King or any other Lord, paying for the same personal homage, swearing fidelity, and attending the chief when summoned, ready arrayed for war. The amount of the Reliefs to be paid by these Tenants is next stated; and in conclusion of the former remarks on this subject, it should be observed, that anciently this present was said to be given in *redemption* of an estate, thus acknowledging that it had wholly departed from the family of a deceased proprietor; but in later times it was said to be given for the *relief* or *renovation* of an estate, the word being derived from the Latin *Relevare*, to lift up again. The most ancient Relief is called a Heriot, from the Saxon Here-geat, which literally signifies Armour and Weapons: "a tribute," says Somner in his Dictionarium Saxonico-Latino-Anglicum, Oxf. 1659, Folio, "of old given to the Lord of a manor, for his better preparation towards warre. We now call it a Heriot, and understand by it the best horse, ox, cow, or such like chattell, which the Tenant hath at the houre of his death, due to the Lord by custome." It was probably from this circumstance, then, that the original Reliefs were ordained to be paid in Armour; and by

the Laws of King William the First, the Relief of an Earl was eight horses saddled and bridled, four helmets, four coats of mail, four shields, four spears, four swords, four chasors, or hunting horses, and one palfrey bridled and saddled. A Baron was to give half as much with the palfrey. A Vavasor, the next degree to a Peer, was to present his Lord with his best horse, his helmet, coat of mail, shield, spear, and sword; or instead of these one hundred shillings. A Countryman's Relief was his best beast, and he who farmed his lands gave a year's rent. Vide Leges Anglo-Saxonicæ, by David Wilkins, Lond. 1721, Folio, pages 223, 224, Nos. 22-24, 29. Thus there was originally a scale of settled sums for the lands of the different degrees, from the highest downwards; but previous to John's reign, especially in those of King William Rufus and Henry II., Reliefs became arbitrary, and often, under the title of a reasonable Relief, considerable oppressions were imposed. The sums mentioned in the text, would be about twenty times their value in modern currency; ten times in allowing for the difference of coin, and ten more in the quantity and worth of the article to be procured. The ancient Relief however, to which the present Chapter of Magna Charta alludes, was the giving up the fourth part of the value of an Earldom, a Barony, or a Knight's Fee for one year. Sir Edward Coke, in his comment upon this Chapter of the Third Great Charter of King Henry III., contends for reading an hundred marks (£66 13*s*. 4*d*.) for the Relief of a Barony, instead of an hundred pounds, as stated in the text. The sum which anciently was sufficient to maintain the dignity of a Knight, he observes, was £20 per annum, and his Relief, the fourth part, £5: the yearly value of a Baron's estate was to consist of thirteen Knights fees and a quarter, or four hundred marks, amounting to £266 13*s*. 4*d*. in modern coin; the fourth of which is one hundred marks, £66 13*s*. 4*d*. The estate of an Earl being £400 per annum, his Relief is truly rated at an hundred pounds.

It is evident that in this Chapter there was only a restitution of ancient customs, and no grant of new privileges; but the whole of this clause of Magna Charta is now rendered

obsolete by an Act passed in the twelfth year of the reign of King Charles II. cap. 24. entitled, "an Act for taking away the Court of Wards and Liveries, and Tenures in Capite, and by Knight's Service, and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof." This recompense consisted of some of the duties arising from the Excise. *Coke.*

CHAPTER III. Pages 49, 67, 107, 120, 132, 147.

The intent of this Chapter is to preserve the old Statute of the Common Law regarding Military Service, *Coke* on *Littleton*, Lib. II. Cap. iv. Sect. 112, by which it is provided, that the Lord of an estate cannot have both guardianship of the heir and his land, and also a Relief when he shall come of age to do Knight's, or Warlike service for it. For this cause then, if a person held lands of the King in Chief, and different lands under some other Lord, both by Military duty; the King by his prerogative had the wardship of all, and, upon the heir's coming of age, a Relief was paid to the other by way of recompense. The Homage is the first particular mentioned in the present Chapter in the additions made to the Great Charter of King John, by Henry III. in 1217; and this consisted in a Tenant appearing before his lord ungirt and uncovered, kneeling down, and then placing his joined hands between those of his Lord, promising fidelity to him saving his faith to the King. The reason of this being performed previously to the Lord of a fee taking his tenant's heir and land into ward, was to warrant the land to the heir, and to acquit him from any service to all other Lords. It was also provided, that though the heir should be made a Knight, which made him free as to his body, yet his lands should still be in ward, as the clause sets forth. The whole of this Chapter referred to heirs male only; but it was entirely cancelled by the act cited at the end of the last Note.

CHAPTER IV. Pages 49, 67, 107, 120, 103, 147.

The intent of this, and the following Chapter of the Great Charter, was to prevent the Sovereign from placing rich estates of heirs under age in the custody of mercenary men, who might exact heavier rents and services than the land had ever before been rated at; or who would destroy

or neglect any of the property so committed to them; and this clause has remained unaltered since the Magna Charta granted by King John, down to the last Inspeximus or reviewal of Edward the First. But the duty of a Keeper, or Guardian, was not only to preserve the estates, but the person of the heir; "to educate," says Lord Coke, "and bring up his Ward virtuously, and to advance him in marriage without disparagement." In what the latter consisted, will be shewn in the note upon Chapter VI.; but the present and ensuing one, relate only to the manner of preserving the lands and property. Guardians of estates held by Military Service, were, as Lyttleton observes, of two kinds; namely, a Guardian in right, which was when the superior Lord upon the decease of his Tenant, became, in virtue of his title, the possessor of the heir and his lands; and a Guardian in fact, which is where the superior Lord, after having made his claim, grants the Wardship to another, who comes into possession by the force of that grant. This latter species of Guardian is that mentioned in the text. The Chapter first proceeds to state in what manner the products of an heir's estate are to be made use of. *Issues*, or as the original word may be better translated, out-goings, signify the rents and profits issuing from the lands or tenements of the ward, which are to be taken by the Guardian in a reasonable manner, according to what is allowed by law. *Customs* are privileges due or appendant to the lands of the ward, such as advowsons or presentations to ecclesiastical livings, commons, waifs and strays, Tenant fines, &c. *Services* were those duties accruing to the lord from his copyhold Tenants, which were of the nature of feudal services, being annual and accidental, as well as comprising homage and fealty. The reasonableness of these various provisions was to be decided by the King's Justices.

With regard to the saving clause in this Chapter, concerning the destruction and waste of the men or goods, it will be proper to explain it, as it concerns the legal signification of those terms. *Waste* is committed in neglecting to repair houses, in damage done to gardens, and in the cutting down of timber trees. *Destruction* of goods, is the

cutting down of young timber plants, and any other kind of trees set for the defence of the house. Exile, or destruction of men, is when by any oppression they are reduced to poverty, and forced to quit their dwellings upon the estate. *Coke.* It should be observed that the fair profits of the land were claimed by the Lord of an heir under age, that out of them he might provide some person to supply his defect of service, until he should be able to act for himself. *Wright.* This Chapter is also rendered obsolete by the same Statute as the two preceding.

CHAPTER V. Pages 50, 69, 108, 120, 133, 147.

The Laws enforced by this Chapter of Magna Charta, are similar to the agreement of repair which exists between a Landlord and Tenant for years, as may be seen by a reference to Sir Edward Coke's Commentary upon Littleton, Book I. chap. vii. sect. 67, and it is, as Glanvil observes, merely a restoration of the old Common Law, for Magna Charta confirms all the ancient laws of England, which time, or abandoned men had changed; but notwithstanding the popular regard for this grant, it confers nothing new, nor any one privilege which is not in the present day far more securely, amply, and excellently provided for. The latter part of this Chapter relates to the King's prerogative as Patron and Protector of the Church, which was to have not only the guardianship of such Abbies and Priories as were of Royal foundation; but also that of the lands and temporal possessions of Bishops and Archbishops. The Charter of King Henry III., in which this clause concerning ecclesiastical guardianships first appeared,—vide page 108, provides also against that guardianship being sold, as was common in other cases of ward. The reason of such a provision was as follows: Ranulph Flambart, Treasurer and Chaplain to King William Rufus, assisted that monarch in many of his schemes for procuring money from his subjects; he would sometimes persuade him to keep Church livings and preferments vacant for a considerable time, in order that they might be let or sold, and that their profits might be retained. The episcopal and priestly offices were then no longer freely bestowed by nomination, and

delivery of the pastoral ring and staff; but sold to those whose wealth best enabled them to procure such honours. Ranulph, was, for such advice as this, first advanced to the dignity of Chancellor, and afterwards to the See of Durham. When King Henry I. succeeded William Rufus, he, foreseeing the consequences of continuing such a line of conduct, readily agreed to abolish it by the Charter which he issued in the year 1100, which also took away the Couvrefeu, and granted some of the liberties contained in the present instrument; but a more particular account of this celebrated deed, supposed to have been the foundation for the Magna Charta of John, will be found in the preceding Essay, and the second of the Notes at the end of the volume. After this grant, the King committed Bishop Ranulph to prison; "where," says Coke,[a] "he lived without love, and died without pity, saving of those that thought it pity he lived so long." The passage in the text was therefore intended to secure the clergy against any such oppressions in future; but the King may commit to another, any ecclesiastical possessions during their vacation, as may be seen in the Statute of the fourteenth year of King Edward III. chap. 4 and 5. This portion of Magna Charta, as well as the former part relating to wards, is rendered obsolete by the act of Charles II. already cited; and that concerning Abbies, &c. by an act passed in the thirty-first year of Henry VIII. chap. 13, entitled, "an Act whereby all Manors, Lands, Profits, and Hereditaments belonging to any of the Monasteries or other Religious Houses dissolved, or hereafter by any means to be dissolved, are assured to the King's Highness, his heirs and successors for ever; and in what wise leases and grants heretofore made, or hereafter to be made of them, or any part of them, shall take effect." As the present was one of the last Chapters of Magna Charta over which the Statute of the 12th of Charles II. had any influence, it will be proper to give a very brief notice of it's nature and origin. The Court of Wards and Liveries was erected by authority of Parliament, in the year 1549, 32nd Henry VIII. Chapter 46. It consisted of

[a] Second Institute, Edition Lond. 1809, 8vo. Vol. iv. p. 15.

33 sections, and it's intent was to transact all the affairs of the Royal Wards, Idiots, and Widows, as it regarded their property and marriage. This court was a Court of Record, or one which had power to hear pleas according to the Common Law, where the damage is forty shillings or more; it had a common seal, and was constituted of a Master, the King's Attorney, a Receiver General of the Rents of the Estates, two Auditors of the Ward-lands, two Clerks of the Court to draw leases, a Messenger, and an Usher, all of whom were to be admitted on oath. The Master, the Attorney, and the Auditors, or any three of them might sell and grant Wardships, make sales of Underwood, and take timber for repairs of the Ward-lands: they might treat with Widows for their marriage-fines, manage the property of Idiots,[a] and the Receiver General was to pay yearly to the Treasurer of the King's Chamber, all monies or obligations for money received by the Court, whilst an annual report of it's state and proceedings was to be made by the Master to the King. In 1541, 33rd of Henry VIII. chap. 22 and 39, and again in 1553, 7th Edward VI. chap. 2. the Act founding this Court was explained, modulated, and re-established; but in 1660, 12th Charles II. chap. 24. it was wholly repealed, the Court dissolved, Military Tenures were taken away, Marriage made free, and all future Tenures created by the King were to be independent of any duty in war. The reasons for the abolishing of this Court and Military Tenures, were given in the introduction to the new Act, and they were, firstly, that they had been "more burthensome, grievous, and prejudicial to the Kingdom, than they had been beneficial to the King," and that since the intermission of the English Court, in 1645, that is to say, from the commencement of the Civil Wars until the Restoration, many persons had disposed

a The custody of Idiots was formerly in the Lords of estates, and they were considered as always under age, because they were incapable of doing service for their lands. Sir Edward Coke observes, that the King first possessed the prerogative of holding their possessions during their life, in the time of Edward I.

b There is an Engraving of this Court, which sat in Westminster Hall, copied from a very Ancient Painting, with an account of the Court itself, to be found in the First Vol. of the Vetusta Monumenta, published by the Society of Antiquaries, Lond. 1747, Folio. No. 70.

of, and willed away the lands which they held by Knight's service, "whereupon some questions might possibly arise, unless some seasonable remedy be taken to prevent the same." Instead, therefore, of the profits which the King had hitherto derived from the Court of Wards, he was to receive the Excise Duties on Beer, Ale, Cyder, &c. *Statutes at Large.* Before concluding this account of the Court of Wards, it should be observed that the word Livery, is put for Delivery, and signifies that writ by which an heir of full age obtained possession of his lands from the King.

CHAPTER VI. Pages 50, 69, 108, 121, 134, 148.

The Tenure of Military Service was connected with the right of a superior Lord bestowing his Tenants in marriage; or at least his consent was required before any union could take place with one of his followers. And the reason for this was certainly a fair one; because, according to the principles of Feudal Tenures, it was proper to prevent any person who enjoyed a part of the land, from bringing into the joint possession of it either an enemy of the superior Lord, or one of a family at enmity with him. If therefore a Military Tenant married without his Lord's consent, his fee was forfeited; and it is probable that in the original state of Feudal Tenures, this law extended both to male and female tenants; but, says Dalrymple, page 42, "as there was an obvious distinction in the importance to the superior, between an heir female bringing a male foe into the possession of the fief, without the superior's consent; and an heir male bringing only a woman of a family at enmity with the superior, into it; so there arose a difference between the penalties upon the marriage of the one, and those upon the marriage of the other." A female heir might be given in marriage by her father at the age of twelve, but fourteen was called her age of discretion, or time when she might consent or disagree to marriage under a feudal Lord; but if her ancestor died before she had reached the age of fourteen, or was married, then she was to remain in Ward until the age of sixteen, in which two years it was supposed that her Lord might tender to her a suitable marriage. This if he neglected to do, at the end of the two years she could

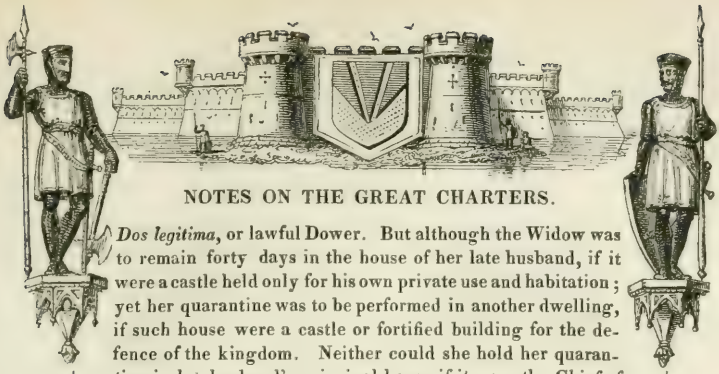
enter on possession of her estate. If, on the contrary, she *were* married under the age of fourteen, in the life of her progenitor, and was also under that age at his death, then the Lord was to have Wardship of her only until she attained to it, when her husband and she were immediately to enter on possession of her lands. The age of discretion for a male heir was fourteen, at which time he might consent or disagree to any marriage his Lord had formerly provided for him; and the old law was such, that if he did then disagree to such marriage, although his lands remained in Wardship until he should come to the full age of twenty-one, yet he was free from Ward as to his body, and his Lord had no right to marry him a second time. In 1235, 20th Henry III. chap. vii. was made a provision against heirs of any age refusing to marry at the command of their Lord: they were not to be compelled, but when they came of age, they were to pay him whatever sum might have been given for the marriage of such heirs; and this was to be done before they could possess their lands. One who gave his daughter in marriage without the consent of his Lord, forfeited his inheritance. This power of Feudal Lords, was however, together with all the management of the property of Wards, given to parents and proper persons by them appointed, by the act so frequently cited, 12th Charles II. chap. xxiv. sect. 8. During the time, however, that these laws existed, the present chapter of Magna Charta was intended as an ancient institute of the Common Law, and was doubtless inserted as a provision against mercenary or interested guardians involving their Wards in any improper connections, by way of securing the estates for themselves. There were many kinds of disparagements; but for any of these four principal ones, the heir, if married before the age of fourteen, when he arrived at that age might disagree to the match, and it should then be dissolved by law: 1stly, the marriage might be refused, if the party provided were an idiot or lunatic: 2ndly, if they were of an inferior degree, one of attainted blood, or illegitimate: 3rdly, if they were imperfect in person, or deformed: and 4thly, if the bride were a widow, because that was considered as bigamy, and pre-

cluded Benefit of Clergy, the latter, however, was provided against in 1547, the first year of Edward VI. cap. xii. § 16. by an act entitled, "an Act for the Repeal of certain Statutes concerning Treasons, Felonies, &c." in which it was declared that Benefit of Clergy should be allowed to any persons, notwithstanding their marriage with widows.

CHAPTERS VII. VIII. Pages 50, 69, 108, 121, 134, 148.

Before the Norman Conquest, a widow had no power to marry again until one year should have expired after the death of her husband: and the Hon. Daines Barrington,[a] in his very amusing and yet learned observations on Magna Charta, gives instances of the same kind of restriction in other nations, as in Denmark and Sweden, and anciently in Germany and in Rome, where the old laws limited the time of celibacy to ten months. The word *Maritagium*, as it occurs in the original text, is a technical expression signifying liberty to marry again, whereby the year of mourning was set aside, so far as the Law was concerned. The whole of this and the succeeding Chapter relates to the general rights of Widows, as they regarded the Feudal System; for as females at that period possessed no personal fortune to entitle them to a jointure, so the immediate provision of Dower for their maintenance, was of the greatest importance. The Widow, however, might remain in her late husband's dwelling, (if it were not a castle,) for forty days, which time was called her quarantine, and which began on the day of his death, and continued to thirty-nine days after; if during that time she married, her widowhood was then past, and she forfeited her Dower. Barrington, in his work already cited, says, that one reason for this quarantine, was the apprehension of counterfeit issue, which he remarks was not unfrequent in former times. The additions in the Second Magna Charta of King Henry III. provided for the Widow's support, until the Dower was assigned, under the title of her reasonable Estovers, which signify to sustain or nourish. With respect to the quantity of the Dower when granted, it was generally the third part of the deceased's possessions, and thence called

[a] Observations upon the more Ancient Statutes, 5 Ed. Lond. 1796, 4to. pp. 8-10.



Dos legitima, or lawful Dower. But although the Widow was to remain forty days in the house of her late husband, if it were a castle held only for his own private use and habitation; yet her quarantine was to be performed in another dwelling, if such house were a castle or fortified building for the defence of the kingdom. Neither could she hold her quarantine in her husband's principal house if it were the Chief of a County or Barony. *Coke on Littleton*, Lib. I. Cap. v. Sect. 36. An obsolete custom of endowing a female, is alluded to in the additions of King Henry III. to this part of Magna Charta. Dower is of several distinct kinds, one of which is denominated *Dower ad ostium ecclesiæ*, or Dowry at the Church door; by this species, a man was unable to endow his spouse with more than a third part of his possessions, although he might with less, and as this is a public act of endowment, made immediately after the marriage, it would be well known to what portion of property Widows were formerly entitled. If they claimed a Dower by Common Law, they received a third part of all, but if by Dower at the Church door, it consisted of such lands only as were named by the husband at the time of making the endowment. These Chapters on the rights and duties of Widows, continue, that they shall not be obliged to marry by distraint, or the seizure of their goods; which was inserted probably to prevent the Lord of the fee from giving their possessions to any follower of his own. The same clause also adds, that the consent of such Lord shall be procured previous to any future marriage, and this it is supposed for a two-fold reason: firstly, because the Widows of the King's chief tenants should not marry with his enemies; and secondly, because they should not be united to strangers, by whose means the treasure of the realm might be carried out of the kingdom. The Relicts of such persons as had held of the King in Chief by Knight's Service, were called the King's Widows, as in the Statutes concerning the Court of Wards and Liveries; and the ancient fine paid by any of them for marrying without license, was the value of her dowry for one year. *Coke.* This Chapter in the First Great Charter of King Edward I. contains several additions and the enactments of several clauses in the preceding in-

struments, as may be seen by a reference to the pages cited at the head of this Note; but there were no alterations made in it after the Third Magna Charta of King Henry the Third. As Tenures of Knights Service were discharged by the Statute of 12th Charles II. Chap. 24, Sect. i. so the following section took away values and forfeitures of marriage, by which the greater part of this Chapter is void. For a general view of the improved modern law of Dower, see Sir Thomas Edlyn Tomlin's edition of Jacob's Law Dictionary, Quarto.

CHAPTER IX. Pages 50, 71, 108, 122, 134, 149.

This is the first Act of Grace contained in the Great Charter; for by the Common Law, the King had execution of the body, lands, and goods of the debtor, and he might also, by his prerogative, distrain for his rent in any other lands which his tenant possessed, although they were not of his own fee. A similar process was likewise used by many of the Barons, and this was afterwards carried to such an extent, that they levied their distresses in the common streets and high-ways, against which a Law was enacted in the 52nd Henry III., 1267, commonly called the Statute of Marlborough, or Marlbridge, Chap. 15. The force of this Act of Grace was more particularly shewn in the twelfth Chapter of the Statute, denominated "The Articles upon the Charters," of which some notice has been given in the preceding Essay, page 46. The following is the passage in the Articuli Super Cartas—"And he,"—the King—"will not that over great distresses shall be taken for his debts, nor driven too far, and if the debtor can find able and convenient surety, until a day before the day limited to the Sheriff, within which time a man may purchase remedy, or agree for the demand, the distress shall be released in the mean time; and he that otherwise doth shall be grievously punished." In this instance, if the Sheriff should refuse to receive an offered surety, an action might be brought against him for so doing. In the year 1541, in the 33rd of King Henry VIII. Cap. 39, an act was passed for "The erection of a Court of Surveyors, and for the more effectual recovery of the King's debts;" but this, which was in fact a Court of Aug-

mentation,[a] was dissolved in 1553, in the second session of the First of Mary, Cap. 10, by "An Act for the Uniting, Dissolving, and new Erecting of Courts," and annexed to the Exchequer. Some additional observations on Debts of the Crown, will be found in the Notes on the Thirty-first Chapter of the Magna Charta of King John.

CHAPTERS X. XI. Pages 55, 56, 71.

By the Laws of King Edward the Confessor, and the testimony of Glanville and others, it was anciently not lawful for Christians to take any sort of usury, so that interest for money was paid to the Jews alone, and to them only whilst the ancestor was living, or after his successor came to full age. The sole privilege which they possessed of thus increasing their wealth, together with the spirit of the Crusades, generated in England a hatred to the Jews from which none of the English in the middle ages were free. Rapin, citing several of the older historians, relates many instances of the extreme cruelty and oppression with which they were treated, immense sums being levied upon them at the King's pleasure, for permission that they should remain in England: and Henry III. sold them for a certain term of years to his half-brother Richard. At length, in 1253, the same Sovereign being in France, he wrote to his Queen and the Prince to obtain an Aid to preserve Guienne from the Moorish Army, when the King of Castile was marching against it. This they did not venture to ask of the Parliament, and the King wrote a second time commanding his brother at any rate to extort money from the Jews; which he so punctually and rigourously performed, that they at first petitioned to leave the kingdom, but even that being refused them, they were compelled to pay to Henry a greater sum than ever. The revenue arising from these unfortunate persons, was paid into a Court belonging to the Exchequer; whence it received the name of Scaccarium Judæorum, or the Exchequer of the Jews. In this was deposited the amount of their Tallage and Fines on Law proceedings, Amerciaments for Misdemea-

[a] The Court of Augmentations was originally so denominated, because it consisted of Officers who received the profits of the Religious Houses which the King reserved for himself; thereby considerably augmenting the Royal Revenue.

nours, Ransoms, Compositions, &c. which they were forced to pay for having the King's benevolence, license to trade, for discharges, imprisonments, and the like. The enormous sums which they disbursed, however, evinced that they had amassed considerable wealth by the mortgages, bonds, usury, and traffic which they effected nearly all over England; for, being a very numerous body, they were settled in almost all of the most considerable towns of the kingdom. A much more extended and interesting account of the early state of the Jews in this country, the laws concerning them, and their taxations, with numerous references, will be found in M. Rapin's History of England, Edit. by N. Tindal, Lond. 1732, Fol. Vol. I. page 347. Such were the benefits which the Kings of England anciently derived from the Jews, and perhaps to this arbitrary treatment may be ascribed that usurious spirit which certainly actuated them; for Sir Edward Coke states, in his Second Institute, page 505, that when King Edward I. was about to establish a final statute against the Jews and Usury, two grievances were to be taken away by it. Firstly, the evils and disinheritances which the people of England had experienced by becoming their debtors; and secondly the national sins to which their usury had given rise. The loss to the Crown, on the contrary, was very considerable; for between 1265, 50th Henry III, and 1273, 2nd Edward I., a space of only eight years, the Jews had paid £420,000, 15*s.* 4*d.* Although a people so profitable were positively encouraged by a Charter from King John, and even the two Monarchs above-mentioned issued many acts to moderate their usury, yet at a Parliament held by Edward I. in 1289, the eighteenth of his reign, the Statutum Judaismo was enacted, by which usury was entirely forbidden in England. The Jews, continues Lord Coke, deprived of their profits, but yet not banished the realm, left the kingdom to the number of 15060, and remained in exile abroad, until the time of the Civil Wars. Previously to their departure, they petitioned the King for his Writ of safe conduct through the country, the form of which is preserved by Sir Edward Coke: and it is directed to the Sheriff of the County, commanding him to proclaim through-

out the whole of his jurisdiction, that the Jews should have free liberty to depart towards London, without injury, molestation, damage, or grievance, provided that they first restored the Christian pledges held by them. It is dated the 18th of July, 1289. By virtue of these Writs, the Jews assembled in London, and some of the richest of them having embarked with their treasure on board a vessel of great burthen, sailed down the Thames to Queensborough. The Master of the ship, a man yet worse than the most usurious of his passengers, entered into a conspiracy with his own mariners to destroy them. For this purpose he cast anchor, and remained so until the vessel lay dry a-ground at the ebb tide. The sailors then invited the Jews to go on shore with the Captain, which they having done, he carefully watched the flowing of the tide, and suddenly leaving them gained the ship by a rope. As no deceit was suspected, the Jews did not discover it until it was too late; and then, when they called out to be taken on board, the prophane sailors bad them cry to Moses who had conducted their fathers through the Red Sea, who was also able to deliver them from the tide which now was rapidly rising upon them. The conclusion was that they perished in the waters by this act of treachery, but the Captain and such of his crew as had consented to it, were indicted of murder before the Justices on the circuit, convicted, and subsequently hung. It remains to be added only, that King Edward I. received a fifteenth from the whole kingdom for his banishing the Jews from England by the expulsion of usury. The Statutes of Jewry ordained that usury should wholly cease for the future; that no interest should run from the Feast of St. Edward preceding this act, 18th March; that debts due to the Jews should be paid between the time of enactment—Hillary Term in January—and the ensuing Easter; that if any Jew lent at usury after the passing of that Statute, the King's Officers were not to aid him in recovering his debt, but that he should be punished and the Christian's pledge restored; that their distresses for debt should not be so heavy as to take away a debtor's whole maintainance; that a debtor's heir should not be distressed, nor any person holding his land before the debt was

allowed in Court; that goods and lands should be valued for the Jews debts by good and lawful men; that they should have a particular abode and badge, and that all above twelve years of age, should yearly pay to the King the sum of three pence at Easter; that they should not make conveyances of land, without the King's license; that they should be protected by the King, his Sheriffs, Bailiffs, and subjects, and not challenged in any Court but the King's; that they might traffic with the work of their own hands, or that of Christians, and be free from scot and lot; and finally, for the space of fifteen years, that they might buy houses and farms in their peculiar residences, saving that they held them in Chief of the King. *Statutes of the Realm.* Neither of the Chapters relating to the debts of the Jews are to be found in any other Charter of Liberties than that of King John; for, in the end of the first one granted by King Henry III., page 116, it is stated, that these were some of the points reserved for consideration, which, until they were settled, were to be held as lawful. The next appearance of the first of these Chapters, namely, that interest should not run against an heir under age, is in the Statutes of Merton,[a] Cap. 5. But these Laws were not enacted until 1235, the 20th of King Henry III. The twelfth Chapter of the Magna Charta of King John, concerning the dower of a Widow and the maintainance of her children being delivered free of debts, is in conformity with the Seventh Chapter by which the whole dower was secured; and also by the principle observed in all the Charters, that distresses should not be carried to such an extent that nothing should be left after they had been levied. The expression in the text, *saving the rights of the lords*, is a provision that all their lawful customs and services are not barred by this protection of a tenant's property; and it infers that if they be neglected or denied, the Lord of the fee might distrain for Wardship, Relief, or Marriage.

CHAPTER XII. Pages 55, 73.

This Chapter is also to be found in it's fullest extent in the Great Charter of King John only; and it's subject is the

[a] A body of Laws so called, because they were enacted in a Parliament held at the Monastery of Canons Regular of Merton in Surrey.

levying of Scutage, a tax anciently paid by such as held lands by Knight's Service towards furnishing the Royal Army, at the rate of one, two, or three marks for every Knight's fee. It was originally derived of the Saxon words Scyld and penig, the Sheild-penny; whence it was translated into the Norman French Escuage, and the Law-Latin expression of Scutagium, or service of the Shield: this, says Lord Coke, "was in respect of the Scutum, or Shield, which ought to be borne both by Lord and Tenant in such wars." The service, however, was not entirely like Knight's Service; inasmuch as it was neither due upon all military occasions as that was, nor was it a direct personal attendance upon the King in his wars: but it consisted of a pecuniary aid or contribution, reserved by particular lords instead of personal service, the better to enable them to bear the extraordinary cost of their own attendance and warfare, when the King made war, if the tenure were so expressed. As the Lord's service abroad was thus uncertain, continue Jacob and Sir T. E. Tomlins, from whom this definition of Escuage is derived, the amount of his aid was seldom ascertained by reservation; but was usually proportioned to the fine received by the King from his Tenants in Chief, who failed to attend him on such expeditions. The Kings of England, therefore, anciently taking the advantage of, or probably complying with this custom of their tenants, and sometimes on occasion of war, assessed without summons a moderate sum upon every Knight's fee, as an Escuage wherewith they might provide foreign stipendiaries to supply their defect of service. But as this species of Escuage was really a previous commutation between a Tenant and his Lord, and not incurred as a fine, it was not long acceded to; and in the reign of King John it was not only insisted upon as an undoubted right of the King's Tenants, but the Barons procured the insertion of the present Chapter of Magna Charta, that it should be imposed only by the Common Council of the kingdom. Littleton in his Tenures, Book 2, Chap. 3, Sect. 97, shews the proportions of Escuage to be levied by the authority of Parliament after a royal expedition, upon such as were not with the King; and Sir Edward Coke observes upon it, that although uncertain

Escuage is due by tenure, yet because it's assessment concerned so many in the realm, it could not be imposed by the King nor any other but the Parliament. The last Escuage so assessed, was levied in the year 1314, the 8th of Edward II. As Escuage thus became the only penalty for defect of service, many lords by covenant between them and their tenants, fixed it at a certain sum, to be paid so often as Scutage should be granted without regard to the rate assessed by Parliament; and this was called Escuage Certain, because it did in effect discharge the tenant from all military service. The amount of Escuage assessed upon any estate, was, of course, according to the extent of it; this being estimated sometimes by the number of Knight's fees it contained, and at others by the value of the land. The quantity comprehended in a Knight's fee, seems to have been very uncertain: for it is asserted by some that it should consist of eight hides, each of which were equal to an hundred acres; others make but 680 acres in the whole; and a third class disputes the number of acres contained in the Saxon terms an Oxgang, a ploughland, and a yardland of territory. Camden and Sir Edward Coke are opposed to all these, and speak positively as to the income produced by the estate constituting a Knight's fee, if it amounted to £20 per annum. This is again controverted by that admirable Lawyer and Antiquary John Selden, who in his Titles of Honour, Part 2, Chap. 5, § 26, insists that a Knight's fee was not estimated either by quantity or value, but by the service, or number of the Knight's fees reserved. He also cites instances of Earldoms and Baronies containing an uncertain number of Knight's fees, contrary to the assertion of Sir Edward Coke already mentioned, that those estates were composed of a fixed quantity. However this might be, the Tenures of Littleton, Lib. 2, Cap. 3, § 97, state that Escuage was to be levied in proportion to the Knight's fees or parts of one contained in any property; as, if the Parliament assessed one retaining a whole Knight's fee to the amount of forty shillings, then he who held but half an one, paid but half that sum to his Lord: he who held less paid less, and he that owned more was rated at more. This Chapter in King John's Charter, also provides

for another privilege claimed by the superior Lords under the Feudal system, namely the assessing of Aids for defraying some of their own private charges. Strictly speaking, however, Aids were not at first a direct Feudal obligation, but were originally sums of money obtained from the Tenants out of a regard to the person and claims of his Lord. In their most ancient state too, both the amount and nature of Aids were as uncertain as the occasions which arose to demand them, and the property of the Tenant could furnish; but in the course of years they became established renders of duty, of which the three events mentioned in the text at page 73, gave, in Normandy, the most general opportunities for claiming. These soon became fixed and established, to the exclusion of certain other unreasonable demands made by the inferior Lords of Fees, which also passed under the title of Aids; as an assessment upon the Tenants to enable a Lord to discharge his debts; and one termed Aide de Relief, to furnish the sum required by the Law of Reliefs already treated of. In the reign of King Henry II. also, it was doubted whether the Lords might not require Aids towards the perfecting of their military preparations; but all these illegal Aids were abolished by the present Chapter of King John's Great Charter. At the same time three certain Aids were permitted to be taken, as well by the King as by his Barons; see page 73, Chapter XV. to which also this Note will be a sufficient commentary. They were ordained however to be taken in a lawful manner, and were firstly, *for redeeming the King's or a Lord's body*, that is to say, whenever he became a prisoner of war: secondly, *for making his eldest son a Knight;* and thirdly, *for once marrying his eldest daughter*. For the first of these causes the Aid was less frequent and more uncertain than any of the others; but at the same time it was of the highest consequence that he should be ransomed at any rate, so often as he might be made a prisoner of war. Sir William Blackstone in his Commentaries, Book II. Chapter 5, page 63, observes that as this species of Aid was a natural consequence of Feudal attachment and fidelity, the omission of it, whenever it was in the Tenant's power, was, by the rigour of the Feudal Law, the absolute forfeiture of his estate. The se-

cond species of Aid was for *making the Lord's eldest son a Knight*, "a matter," says the same authority, "that was formerly attended with great ceremony, pomp, and expense." The intent of this, was to bring up the heir of the Lordship to arms and chivalry for the better defence of the nation, and the assessment could not be made until the Young Chief had attained the age of fifteen, or at least was capable of bearing arms; but anciently, Sir Edward Coke observes, the Lords would pretend that their eldest sons were hopeful and forward,—as in their abilities and stature,—and that they would thence demand a larger aid than was due from their Tenants, and also before the proper time. The same grievance was likewise imposed with respect to the third kind of Aid mentioned in the text, that of *once marrying the Lord's eldest daughter;* "by giving her," says Blackstone, "a suitable portion, for daughter's portions in those days were extremely slender, few Lords being able to save much out of their income for this purpose; nor could they acquire money by other means, being wholly conversant in matters of arms; nor, by the Law of their Tenure, could they charge their lands with this or any other incumbrances."

The present Chapter of Magna Charta was one of those which the First Great Charter of King Henry III. left out for farther consideration; vide page 116; but it was inserted again in his Second Charter in an altered form, Chapter 44, page 129. Sir William Blackstone observes upon Scutage, that this clause ordained it to be taken in a reasonable and moderate way, as it was in the time of King Henry II.; but in 1297, the 25th of Edward I., and many subsequent Statutes, it was again provided that the King should take no tasks nor aids but by the common assent of the realm. Hence, he adds, it was held in our old Law Books, that Scutage could not be levied but by the consent of Parliament, such Scutages being the ground-work of all succeeding subsidies, and the land-tax of succeeding times. The assessing of Scutage by that name, was taken away by the act of the 12th Charles II., Cap. 24, Sect. ii. But the Charter of King John, whilst it ordained that a reasonable Aid should be taken for these occasions, did not specify any rate at

which it should be levied; so that it remained in the uncertain state of the Common Law enactment, until the first body of Statutes was passed at Westminster in the 3rd of King Edward I., 25th April, 1275, Chap. 36, when it was provided that the Aid of a Knight's Fee should be twenty shillings, and the same sum for farm lands free of military duty, valued at £20 annually, and of others less or more at the same rate. This Statute was strengthened by another act made in the 25th of Edward III. 1350, Chapter xi, with respect to Royal Aids for Knighting the Prince, and marrying the Princess; but every species of Aid was rendered obsolete by the act which took away the Court of Liveries, 12th Charles II. Cap. 24, § iv.

CHAPTER XIII. Pages 55, 73, 109, 122, 135, 149.

The first clause of this division of the Great Charter of King John, has great affinity with the Chapter last explained, since it provides for the lawful taking of Aids in the City of London. Blackstone remarks, that "from bearing proportion to these Aids, no rank nor profession was exempted; and therefore even the Monasteries, till the time of their dissolution, contributed to the Knighting of their founder's male heir, of whom the lands were holden, and the marriage of his female descendants." The assessment of Aids upon Boroughs, according to Baron Maseres' "View of the Ancient Constitution of the English Parliament,"[a] survived even their erection into Free-Boroughs; and during the Saxon period, all great towns, and the City of London itself were considered as such, it being then called London-Burg: indeed the custom of using the words Civitas, a City, and Burgus, a Borough, promiscuously for the same place, as Jacob and Tomlins observe, continued in force long after the Conquest. Baron Maseres supposes that the origin of that greatness and wealth which now characterise the Boroughs of England, are from most of the inhabitants of the walled towns being first made free from doing services to their Lords in their own persons, although they still remained Tenants with regard to their dwellings. This being

[a] Archæologia, Vol. II. page 320.

the case, as they increased in trade and wealth, they were yet liable to their rents and Aids being raised at the will of their Lords upon pain of being ejected from their houses; and to provide a better security, they used, with their Lord's consent, to apply to the King to be incorporated into a common body, forming as it were but one Tenant, which should pay, by themselves and their successors, a certain fixed and perpetual sum to their landlord and his heirs for ever, instead of those uncertain demands which he could increase at his own pleasure. The King himself was frequently the superior Lord of these walled towns, and of all the land entitled Ancient Demesne, or land held by the same Chiefs for a long succession of years. The sum was entitled a Fee-farm rent, because it was a farm, or rent paid for the liberty of trading in the Lord's borough, and was, at the same time made perpetual on both parts, thereby resembling the Tenure of estates of inheritance. A Borough thus privileged, was said to have been made free, and was termed a Free Borough. But although the Fee-farm rent, was at first sufficient to compensate the Lord for the loss of those rents and tolls which he had resigned, yet in the course of years the great alteration in the value of money reduced it to a trifle; whilst the burgesses of these enfranchised towns, were thus placed upon a level with the freest Tenants of the country. The only important difference which existed between them, was, that the privileges of the Borough belonged to the inhabitants *collectively*, whilst the freedom of the latter descended *severally* to themselves and their heirs. Such perhaps was the origin of Civic liberties, most of which were conferred between the reigns of the Kings Henry the Second and Third inclusive; however, even after infranchisement the power of levying lawful Aids and Taillages yet remained, but only when they were imposed by the Common Council of the kingdom, which consisted of the first class of Freeholders or Tenants in Chief. The Free Boroughs were first admitted to send members to Parliament in 1295, the 23rd of Edward I.; when the Burgesses and Tenants of an Ancient Demesne voted and taxed themselves separately from the Knights of Counties, who then sat with the Lords. They also, on such

occasions, granted the King a greater Aid for themselves and their constituents, than was at the same time laid upon the Freeholders of the kingdom; and, the Baron concludes, from all these particulars, that they were admitted to the privilege of taxing themselves, and that the Taillages raised by the Lords of Free Boroughs from their Tenants, must have been greater than the subsidies granted by the Freeholders of the kingdom in the same proportion. The 32nd head of the Articles of Magna Charta, page 55, from which this Chapter was framed, contains a proviso that the *Taillage* of the City of London shall be taken in the same manner as the Aids. The word Taillage, or Tallage, is derived of the French *Taille*, any thing cut; and is metaphorically used for a part of a person's property cut out of the whole and paid by way of tribute, toll, or tax: but Lord Coke states it to be a general word for all kinds of taxes. The difference between Taillages and Aids, was, according to Baron Maseres, that the latter were subsidies granted by the Military Tenants in Chief to the King, for the whole body of the Freeholders of the kingdom; but the former were those assessments laid, almost at will, upon the Burgesses and inferior Tenants, either by a Lord or the King as they might happen to hold. The Tenants in Chief might not lawfully be taxed but by the consent of the Great Council of the kingdom, and then to the amount of a tenth, a fifteenth, or a twentieth of the goods of each; but the Lords of Boroughs, &c. not unfrequently Taillaged their Burgesses and other Tenants, with an arbitrary amount of Taillage, and at times and occasions answering to their own pleasure. This was in some measure provided against in the xv. Chapter of the Great Charter of King John, page 73; though that section relates to the inferior class of Freeholders, who, according to Maseres, "paid like the Tenants in Chief, or Lords themselves, only the sums assessed by the grant of the Great Council." The intent of the present Chapter of Magna Charta, was like the preceding, to prevent both the King and his Barons from taxing their Tenants, excepting at such times only as when a subsidy was granted by the Council of the kingdom.

Having thus stated some particulars concerning the

assessment of Aids in Cities, which was abolished by the 12th of Charles II. Cap. xxiv. Sect. 4. the next portion of the Chapter proceeds to speak of a confirmation of all the privileges enjoyed by the City of London until the reign of King John. The interpretation of this is, says the Mirror of Justices as cited by Lord Coke, "That the Citizens shall have their franchises, of which they are inherited by lawful title, by the gifts and the confirmations of Kings, and which they have never forfeited, by any abuse; and that they have their franchises and customs which are allowable by right, and are not contrary to law; and this interpretation concerning London is to be understood of the Cinque Ports and of other places." The present Chapter of Magna Charta specifies two kinds of franchises, namely, *it's ancient Liberties and it's Free Customs;* the first of which signify a Royal privilege or branch of the King's prerogative, held by grant or prescription, and existing in the hands of his subjects, by which he or they enjoy privileges not common to ordinary persons. Free Customs are Liberties enjoyed by custom or usage, which in it's legal sense signifies a law not written, but established by long use, and the consent of ancestry. The antiquity of a Custom should be so great, as that the memory of man cannot shew it's contrary, and legal memory is within the first year of King Richard I. 1189; so that no custom can prevail against an Act of Parliament, since the Statute itself is proof of a time when the Custom did not exist. Customs to be lawful must also have been continued, without any interruption of the right, although there may have been of the possession: they must have been without dispute: they must not be unreasonable: they must be certain: when once established they must be compulsory: and finally, they must be consistent with each other. "The Customs of London," observe Jacobs and Sir T. E. Tomlins, "differ from all others in point of trial, for if the existence of the Custom be brought in question, it shall not be tried by a jury, but by certificate of the Lord Mayor and Aldermen by the mouth of the Recorder; unless it be such a Custom as the Corporation is interested in, as a right of taking toll, &c. for then the law permits them not to certify in their own

behalf. And when a Custom has once been certified by the Recorder, the Judges will take notice of it, and will not suffer it to be certified a second time. These Customs of London relate to divers particulars with regard to trade, apprentices, widows, orphans, &c." The next point to be briefly considered by the present Note, is the nature of the principal liberties enjoyed by the City of London, and at what periods they have been granted. It was ordained by King Edward the Confessor, that whoever of servile condition dwelt quietly within the City for a year and a day, was thenceforth for ever free from his lord and master, and became a freeman; which Custom, Stow observes[a] is related in an ancient record book of Guildhall, to have been used in the City of Troy. King William I. confirmed this liberty to the City of London, as well as all others which it had possessed under Edward, but he also made that particular privilege common to all Cities, Castles, and Burghs surrounded by a wall. His Charter likewise ordains, that every man in London shall be his father's heir upon his death, and concludes with a promise of the Royal protection. King Henry the First granted to the Citizens to hold the rich County of Middlesex to Farm for £300: that they should elect their own Sheriff for keeping pleas of the Crown, or suits in the King's name for offences committed against his Crown and dignity, and that none other should be Justice over the people of London: that the Citizens of London should not answer without the walls to any suit: that they should be free from the contributions of Scot and Lot, Dane Gelt, and fine for uncertain murder, and that none of them should wage battle: that if any should be impleaded in pleas of the crown, the man of London should discharge him by his oath, which was to be adjudged within the city: that lodging should not be seized on for the men of the King nor of his Barons: that the Citizens should be free throughout England and the Sea Ports, from toll, passage through towns, ports, gates, and bridges; and lestage, or a toll paid for freedom to sell at fairs, &c.: that the Churches, Barons,

[a] Survey, Edit. by Strype, Book v. Chap. 25.

and Citizens should hold their Sakes, or liberty of jurisdiction quietly, and each enjoy their own customs: that a man of London should not be adjudged in a pecuniary penalty unless it were an hundred shillings: that in the hustings, or highest court of jurisdiction in London, and in the Folkmote or general assembly of the Citizens, there should be no miskenning; and that the hustings should sit every Monday: that the Citizens should have all their lands, premises, bonds, and debts, within and without the City; and that the King should do them right, according to the City Law, of the lands of which they should complain to him: that if any toll or custom were taken of a Citizen, it should be taken back of the same place which required it: that debtors owing debts to the Citizens should pay or discharge themselves in London, or if they refused, the Citizens might seize upon their goods wheresoever they might be: and finally, that the Citizens of London should have their chases for hunting as fully as their ancestors had, in Hertford, Middlesex, and Surrey. All these were confirmed by Stephen, with the provision concerning King Edward's laws; and twice by Henry II. with some few alterations. King Richard I. also granted two Charters to the City; the first in the fifth year of his reign, 1193, 23rd June, was a confirmatory one, and the second related to Wears in the Thames, which will be explained in the Note on Chapter xxxiii. King John, on the 17th of June in the first year of his reign, 1199, re-granted to the Citizens their ancient Liberties and Customs, which he confirmed by another Charter of the 12th of July in the same year: and on the 20th of March, 1201, he granted at the petition of the Mayor and Citizens, that the Guild of Weavers should for the future be wholly removed from London, but that as the King had been accustomed to receive eighteen marks yearly from it, the Citizens were to pay him twenty at every feast of St. Michael. On May the 9th, 1214, King John granted to the Barons of the City of London, liberty to elect a Lord Mayor out of their own body; but Stow shews, Vol. II. page 687, that the office of Mayor is older than the first of Richard I. 1189. Henry III. granted nine Charters chiefly confirmatory; but Edward I.

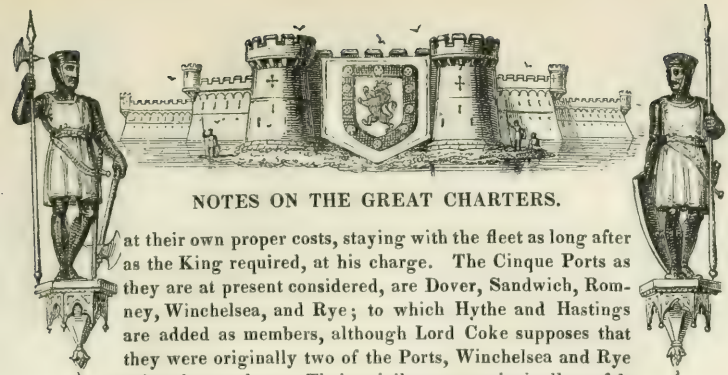
resumed the City Charter, and kept the liberties of London for several years in his own hands constituting Custodes or keepers over it, without the choice of the Citizens. In the 26th of his reign, however, on the 28th of May, 1297, he restored these freedoms without limitation, as they had been held before their resumption. The next year, on the 18th of April, he granted, that whereas it was the custom for the Citizens of London to present their Mayor to the Barons of the Exchequer for admission, they were then permitted to present him to the Constable of the Tower. On the 12th of December, 1322, Edward II. issued a Charter of Indemnity to the Citizens, which provided that the services which they had done the King by going out with him to war, should not be considered as precedents; and Edward III. in his first year, 6th March, 1327, confirmed all preceding grants from Edward the Confessor downward, in a large Charter containing many new privileges; concluding with a promise that the City liberties should never be seized, nor keepers set over it for any personal trespass committed within it. The same Sovereign, on the 6th of May, 1327, granted the village of Southwark to the City for ever, because felons and robbers were wont to fly thither for security, as they could not then be attached by the ministers of the City. In 1337, 1355, and 1376, the same King granted other Charters to London: the first of which was confirmatory in a grant concerning Merchants; the second permitted to the Sheriffs the use of gold and silver maces; and the third, which was granted on the petition of the Mayor, &c., enacts that Merchant-strangers shall not keep houses nor sell in London. A Charter of Henry IV. dated 25th May, 1399, grants to the Citizens the keeping of New-Gate, Lud-Gate, and all the other City gates and posterns; together with the office of collecting the tolls in Cheap, Billingsgate, and Smithfield, with the tonnage, or weighing of lead, wax, and pepper. King Edward IV. granted Four Charters to London. The first, after confirmation of all former Liberties, vests the judicial government of the City in the Mayor, Recorder, and Aldermen past the chair; it then proceeds to protect the Aldermen from being put upon Assizes, Attaints, and Juries

out of the City, and confirms all the privileges concerning Southwark, granting to it a fair for three days. The second Charter gives tonnage and weighing to London: weighing of wool to be at Leadenhall, and at no other place within three miles. The third Charter concedes the very singular privilege of buying 200 marks yearly in Mortmain:—that is to say, the disposing of lands and estates to a Corporation, Guild, Fraternity, &c. by which the services due from them become as it were dead. This Charter was granted as a consideration, for the Citizens remitting to the King a debt of 1923 marks formerly lent him. The fourth Charter of Edward IV. had a similar origin, for in consequence of the Citizens releasing a loan of £7000, he granted them the office of packing all woollen cloths and all other merchandises, which was also confirmed to them in 1511, the third year of Henry VIII.; they were likewise invested with the office of portage of the goods and merchandises of all Denizens and Aliens; the garbling, or searching and cleansing of spices; the guaging and wine-drawing of wines brought to their Port, and of the duty of Coroner. King Henry VIII., by his first Charter transferred Inquisitions to the City; and in his second, gave to the Citizens the office of Keeper of the Great Beam and Common Balance. Edward VI. granted many additional privileges concerning Southwark, and it's government; and James I. confirmed the office of Bailiff and Conservator of the Rivers Thames and Medway, to the Mayor and Commonalty of London, with all the fees and profits belonging thereto. By another Charter in 1607, the fifth year of his reign, the same King confirmed all former Charters and Customs of London, with several privileges to the inhabitants of the Black and White Friars: and in a third Charter, in 1612, he granted the weighing, measuring, and customs of coals brought into the Port of London, to the City for ever. Charles I. in a very extensive Charter dated October the 18th, 1638, the fourteenth of his reign, confirmed all the foregoing, with many amendments and additions; and in a second Charter dated September the 5th, 1640, he granted and confirmed numerous privileges to the Port of London, in consideration of the payment of £4200. After

the Restoration, King Charles II. granted a very full Inspeximus and Confirmatory Charter, dated June 24th, 1663; but when the City was opposed to the measures of the Duke of York, this instrument was forgotten in his brother's indignation. During the violent proceedings which characterised the latter part of the reign of Charles II., say Jacob and Tomlins, it was thought expedient to new model most of the Corporate Towns of the kingdom; for which purpose many of them were persuaded to surrender their Charters, and informations of enquiry were brought against others, upon a supposed, or frequently upon a real forfeiture of their franchises by the neglect or abuse of them. The consequence was, that most of their liberties were seized into the hands of the King; who granted them fresh Charters, with such alterations as were considered essential, and during their unsettled state, the Crown named all their magistrates. Upon this ground, with some alledged aggravations, King Charles II. seized the City Charter in 1683; which produced from the Citizens a petition for it's return on the 18th of June in the same year. The answer to this was given to the Mayor, &c. by the Lord Keeper of the Great Seal, who told them that the King was willing to confirm their Charter, provided they consented to certain regulations touching his approval of the election of the Lord Mayor and Sheriffs. In this mutilated manner was the Charter of London again renewed by Charles II., and in that state it remained until 1688, the last year of his successor James II., when Judge Jefferies, then Lord Chancellor, was ordered to carry the original Charter with great formality back to Guildhall, in the hope of winning the City over to support his government. In 1690, the second of William and Mary, the former proceedings were declared illegal and arbitrary; and that judgment, and every other judgment given and recorded for seizing the franchises of the City was reversed and made void. It was also declared that the Mayor &c. of London, still remained a body politic under their ancient name; and that they should have and enjoy all their rights and Charters: whilst all the Charters, Letters Patents, &c. concerning any of their privileges or possessions issued since the judgment

by the late Kings were made void. The Officers, Companies, and Corporations were also restored: and the eighth Chapter of the first Statute of William and Mary passed in the above year, enacts that the franchises of the City of London should never hereafter be seized or fore-judged for any misdemeanour or forfeiture whatsoever. Such is a very general view of the liberties of London, traced from the earliest period down to the last great settlement; but much farther information on this head will be found in Strype's edition of Stow's Survey of London, Vol. II. Book v. Chapter 25, and in the Appendix to the same, Chapter iii.: but the most perfect list of books containing the City Laws and Charters, will be found in Mr. W. Upcott's excellent "Bibliographical account of the principal works relating to English Topography," Lond. 1818, Octavo, Vol. ii. pages 793-810. See also "an Index to the Statutes at Large" by John Raithby, Lond. 1814, 4to. Article London.

In the first Great Charter of King Henry III., the liberties and privileges of the Barons of the Cinque Ports were first provided for in the same Chapter with those of London: vide page 109. The Cinque, or Five Ports, are those havens which lie towards France, and have therefore been considered by the Kings of England as important to be carefully guarded against invasion. For this purpose they yet retain an especial governor, called the Lord Warden of the Cinque Ports; who has not only the authority of an Admiral, but possesses also the privilege of issuing writs in his own name. As Kent was always accounted the entrance of Britain, Camden observes that King William I. was the first Monarch who made a Constable, or Governor of Dover Castle, and Warden of the Cinque Ports, which offices are united. King John, however, was the first Sovereign who granted them the privileges which they still enjoy; upon the condition of their providing a certain number of ships at their own charge for forty days, as often as the King should require them in his wars. And this service, as Somner remarks in his "Treatise of the Roman Ports and Forts in Kent," they acknowledged and performed upon the Royal summons, and attended with their ships at the time limited



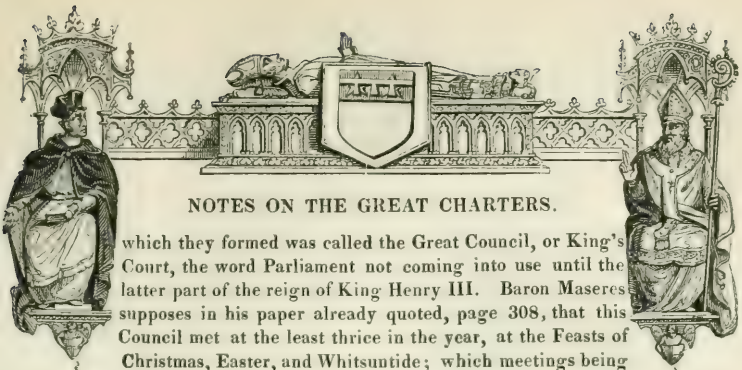
at their own proper costs, staying with the fleet as long after as the King required, at his charge. The Cinque Ports as they are at present considered, are Dover, Sandwich, Romney, Winchelsea, and Rye; to which Hythe and Hastings are added as members, although Lord Coke supposes that they were originally two of the Ports, Winchelsea and Rye being the members. Their privileges are principally as follow: to send each two burgesses, called Barons of the Cinque Ports to Parliament, to be free of the King's writs; to hold various Courts of Pleas; and at a Coronation the Barons of the Cinque Ports claim to carry over the King in his procession, a canopy of cloth of gold, or of purple silk, having a silver gilt bell at each corner, the whole supported by four silver staves, four Barons carrying each staff. They also claim to carry a similar canopy over the Queen; to have the canopies, &c. as their fee, and the privilege of dining at a table on the King's right hand. This claim is founded on a prescriptive right which is recognised in the Charter granted to the Cinque Ports by King Charles the Second. Vide Coke's Second Institute, 557, 558. Fourth do. 222-225. Raithby's Index to the Statutes, Art. Cinque Ports. Charters of the Cinque Ports, by Samuel Jeake, Lond. 1728, Folio. An account of the Cinque Ports Meetings, by T. Mantell, Lond. 1811, 8vo.

Concerning the remaining words of this Chapter, by which all their free customs and privileges are granted to all other Cities and Ports of England, the explanation varies according to the place by which the Charter is pleaded. But with respect to Ports it must be observed, that by the Feudal Laws all navigable Rivers and Havens were considered as special royalties, subject to the Sovereign; who, being Lord of the whole shore, is particularly the guardian of Ports and Havens which are the inlets and gates of the Realm. Madox states, that in the reign of King John, ships were seized by the King's Officers for putting in at a place which was not a legal Port; and these legal Ports were, as Sir Edward Coke supposes, first assigned by the Sovereign, since each of them possesses a Court of Portmote, or a Court incident to Haven-Towns. "But," continue Jacob and Sir T. E.

Tomlins, "though the King had a power of granting the franchises of Havens and Ports, yet he had not the power of resumption, or of narrowing and confining their limits when once established; but any person had a right to lade or discharge his merchandise in any part of the Haven, whereby the revenue of the Customs was much impaired and diminished, by fraudulent landings in obscure and private corners." To prevent this, acts were passed by Elizabeth and Charles II., for the ascertaining the limits of all Ports by commission; and for the assigning of proper places in each for the lading or landing of freights. The word Port sometimes refers to an inland town, since it is derived from the Saxon, and also signifies a City.

CHAPTER XIV. Page 73.

The provisions for the Parliament of England contained in this Chapter, are not repeated in any other of the Great Charters; but so late as 1696, the seventh and eighth of William III., Chap. xxv., an act was passed appointing forty days between the issue of the writ of summons for a Parliament, and the returns of the same. There is at present an extension of this term. A general council for the management of the affairs of the nation, to form new laws, and to amend the existing ones, has been held in England from a very ancient period of time: and though many suppose that the Commons were not admitted to sit in Parliament upon the present arrangement, until the year 1264, the date of the first writ of summons to any Knights, Citizens, and Burgesses; yet the Great Charter of King John was made by the King, the Barons, and the Free-men of the whole kingdom. The constitution of this Chapter, remark Jacob and Sir T. E. Tomlins, has subsisted at least from the year above quoted; the Parliament writs of which are still extant. The first members of the English council, down to the time of King Henry III., were those persons only who held of the King in Chief, and who are ordained to be summoned by the present Chapter of Magna Charta: and they are designated in the more ancient histories and works on Law, by several names importing superior rank; as Barons of the kingdom, the Greater Barons, &c. and the assembly



which they formed was called the Great Council, or King's Court, the word Parliament not coming into use until the latter part of the reign of King Henry III. Baron Maseres supposes in his paper already quoted, page 308, that this Council met at the least thrice in the year, at the Feasts of Christmas, Easter, and Whitsuntide; which meetings being in the ordinary course, required no issue of summons, though there were occasionally others called for a special purpose, when the King issued his command for the Council to come together. The occupations, however, were the same in each, as debates concerning war and peace, the granting of Aids to the King, the regulation of the Laws, and the trial of great causes between the Barons. The King, however, at this period, had not the power of omitting to call a Baron to the Great Council, nor of summoning any person who was not a Tenant in Chief; but after the Battle of Evesham in 1265, had subdued the Baronial influence, King Henry III. selected for the following Parliament only such of his Peers as he thought proper, alledging that those who had been in arms against him and their favourers, were not fit to be summoned to his Councils. The same plan was pursued by Edward I.; and thus arose the law that the King's writ of summons constituted a Baron, and not the circumstance of holding of him in Chief. Lords, however, were not created by Patent until the reign of Richard II., and even afterwards this was done in Parliament down to the time of King Henry VII. Until the same period too, only the Tenants in Chief were summoned to Parliament, but they had considerably increased in number by the effect of a Statute passed in 1289, the 18th of Edward I. which was originally intended to preserve the Feudal Power of the Barons. This Act is denominated, "Quia Emptores," from the opening words, and by it the people were allowed to dispose of their estates, but the original tenure was made to follow the land through all it's alienations. Thus, when the King's Vassal divided his property into smaller Baronies, the new possessor did not become his Tenant, but held immediately in Chief of the Crown; and if the second holders of the land disposed of it to others, the tenure still continued, and remained in the

Crown. The Tenants in Chief, according to Domesday, amounted to about 700 persons; but their Baronies being very unequal in extent, and being in the course of years, repeatedly divided and subdivided, especially by partitions with female heirs, they were diminished in quantity, whilst the number of Tenants in Chief was considerably increased. There are instances, says Baron Maseres, of persons holding the 100th, and even the 300th part of a Barony; yet all these had a title to a seat in Parliament, and hence arose the distinction between the Greater and Lesser Barons. A difference between these is noted in the present Chapter of Magna Charta; for the King was therein bound to summon the former to Parliament *individually* by his Letters, but the latter were to be summoned *in general* by his Sheriffs or Bailiffs. In 1507, the 23rd year of Henry VII., the King, instead of summoning all the Lesser Barons to Parliament, according to this Act, required them to send two of their number to represent them out of every County, which was the origin of the Knights of Shires.

CHAPTER XV. Pages 50, 73.

This Clause occurs in the Charter of King John only, being one of those which were reserved for farther consideration, in the first of Henry III. vide page 116. It's nature and history have been already explained in the note on Chapter XII. page 181.

CHAPTER XVI. Pages 51, 75, 110, 122, 135, 149.

This Statute was intended to relieve such as had no remedy by the Common Law; and it was a restoration of the ancient law of England. It is usually stated, that the writ entitled from it's commencing words, "Ne injuste vexes," was originally grounded upon this act; but Sir Edward Coke denies this on the authority of Glanville and the author of the Mirror of Justices, the latter of whom wrote of the ancient Laws of England, long previous to the Statute of Magna Charta. Sir William Blackstone, however, adopts the general belief, following the "New Natura Brevium" of Fitzherbert; and he explains that the writ is available where a Tenant, who has held of a lord by certain services, has inadvertently given his lord possession of more and of greater.

The writ is in English as follows, and it should be observed, that although it is a prohibition only, yet it is nevertheless in the nature of a right. "The King, &c. to ———— Greeting: we command you that you do not unjustly vex, or suffer to be troubled ———— of his freehold tenement, which he holds of you in ————; nor in any manner exact, or permit to be exacted from him, services or customs which he ought not to do, (or rent which he owes not.)" Almost every question of this nature however, which now can arise, where the above writ was formerly in use, may be determined by a writ of Trespass. *Jacob.*

CHAPTER XVII. Pages 51, 75, 110, 122, 135, 149.

The Court of Common Pleas, which this Chapter made permanent in it's situation, is one of the King's Courts now constantly held in Westminster Hall, but in ancient time it was moveable at the King's will, according to the place of the Royal residence: whereupon, says Lord Coke, "many discontinuances ensued, and great trouble of jurors, charges of parties, and delay of justice; for these causes this Statute was made." Sir William Blackstone states, that in the Saxon constitution there was only one superior Court of Justice in the kingdom, namely the General Council of which some account has been already given on page 195. After the Norman Invasion, the Ecclesiastical jurisdiction was separated from the Civil; and King William soon after effected another separation, of the judicial and parliamentary power vested in the remaining members. On this account he established a constant Court in his own residence, entitled Aula-Regis, or the King's Hall, which was composed of the great officers of state. Of these, the Lord Marshal generally presided in matters relating to honour and arms, and the military and national laws; the Lord Chancellor kept the Royal Seal, and had cognisance of all letters, writs, and grants, to which it was affixed; the Lord Treasurer was the chief authority in affairs of the Revenue; and certain persons who had carefully studied the laws, called the King's Justices, all of whom were assisted by the greater Barons of the realm, formed a Court to be consulted in cases of appeal or difficulty. Over this assembly presided an officer of

great rank and power, who was denominated the Chief Justiciary of all England. He was esteemed the second person in the kingdom, of which, by virtue of his office, he was guardian in the King's absence; and it was he who principally determined the vast variety of causes that were brought before this Court. As such an establishment was bound to follow the King's Household to whatsoever place it might remove, the trial of common causes became so difficult to the people, that it's permanence formed one of the petitions of the Articles of the Great Charter; and it was in consequence settled in Westminster Hall, the place where the ancient Kings of England were accustomed to reside, in which it has in general ever since continued. At the same time were appointed Justices of the Common Pleas having a Chief, whose jurisdiction was to hear and determine all pleas of land, and injuries between subject and subject. This establishment of the principal Court of Common Law at that particular period and place, gave rise to the Inns of Court in it's vicinity. Both Madox and Lord Coke, however, consider that the Court of Common Pleas existed previously to this Charter, though it was the first act by which it was made stationary. A more extended account of the Court of Common Pleas, it's practice, officers, and peculiarities, may be seen in Sir Edward Coke's Second Institute, page 22; Sir William Blackstone's Commentaries, Book III. Chap. iv.; Barrington's Observations already cited, page 12; and Jacob's and Tomlins' Law Dictionary, article Common Pleas.

CHAPTERS XVIII, XIX. Pages 51, 52, 75, 110, 123, 135, 136, 150.

The legal term Assize, with which this Chapter is connected, signifies an Assembly of Knights or other substantial persons, held at a certain place and time, where they sit with the Justice: the word itself being derived from the Latin *Assideo*, to sit together. Assisa, or Assize, is also taken for the Court, place, or time, at which the writs, &c. of Assize are taken. Trials of *Novel Disseissin*, for which this Statute first provides, were inquisitions for the recovery of lands or tenements, of which any party had been disseised, or dis-

possessed; and the term *Novel* or New, was applied, because the Justices who travelled, went their circuits only from seven years to seven years; and no Assize was allowed before them which had commenced previously to the last circuit, as such was called an ancient Assize; whilst that which was concerning a later dispossession, was termed an Assize of Novel Disseissin. A Trial of *Mort d'Ancestre*, was an enquiry after the death of any ancestor or relative, who was possessed of lands, &c. as estates which subsequently to their decease were abated,—broken down or destroyed,—by a stranger; but the writ for this trial must be brought within fifty years, or the right may be lost by the neglect. The term ancestor, is here considered to stop at the father in the ascending line, and the writ assumes a new name for the more ancient relations. It should be observed that both this writ and the former are now nearly obsolete, being almost superseded by the action of Ejectment, excepting in some very peculiar cases. A trial or Assize of *Darrien Presentment*, takes place when a person, or his ancestors under whom he claims, have presented a clerk to a benefice, and upon the next vacancy a stranger presents, disturbing him who is the real patron. In such a case, the true patron shall have a writ of Last Presentation directed to the Sheriff, to summon an Assize or Jury, to enquire who was the last patron that presented to the vacant church; and according as the cause is decided, a writ is issued to the Bishop to institute that clerk, in favour of whose patron it is determined. Assizes of this nature were formerly conclusive, but they are now wholly disused in consequence of a Statute of the 7th of Anne, 1708, Cap. XVIII. by which a person has a right to recover if his title be good, notwithstanding the writ of last presentation. Previously to the making of this Charter, all the above writs were required to be brought before the King or his Justiciary, wherever they might happen to be; but the present Chapter tended considerably to relieve the Jurors and parties in the plea, both in time and in expense, since by it, justice was ordained to be administered to them in their own peculiar Counties, without their following the King's Court, or that of the Common Pleas, to a distant

place. In the Second Great Charter of Henry III. vide page 123, it was first added, that those pleas might be determined in another place, which could not be concluded where they were originally begun; and this was intended to supersede the delay of the Knights and Freeholders in the County Court, as it is ordained in the Charter of King John. This expression, says Lord Coke, "in some other place in their circuit, is to be taken largely and beneficially, for they may not only make adjournment before the same Justices in their circuit, but also to Westminster, or to Serjeant's Inn, or to any place out of their circuit." It was also in the Second Magna Charta of King Henry III., that Assizes of Last Presentation were ordered to be taken before the Justiciaries of the Bench; and Lord Coke observes, that the principle of this clause was expedition; it being ascertained from Glanville, that previously to this Statute such writs were to be returned to the King or his Justiciary by whom the right of Presentation was decided. The title of Justiciaries of the Bench, which occurs at page 123 in the additional Chapter of the Great Charter of King Henry III. last mentioned, is considered to have been instituted about the reign of King John; the word bancus, or bench, signifies, in the Common Law, a bench or seat of judgment, and the privilege of the bench was allowed to the King's Judges only, and not to inferior Courts.

CHAPTERS XX, XXI, XXII. Pages 51, 75, 77, 110, 111, 123, 124, 136, 150, 151.

The subject of the three Chapters above cited being so exactly similar, namely the regulation of amerciaments or levies, the few illustrations which they require will be brought forward together in the present note. The first of these Chapters concerns the Amerciaments to be levied on a Freeman, that is to say a Freeholder, or a Corporation which is consolidated in one person as a Bishop, but not on that which is composed of many, as a Mayor and Commonalty. The term *Amerciament* is derived of the French *à Merci*, and signifies the pecuniary mulct laid upon an individual who has offended, and therefore lies *at the mercy* of the King. Amerciaments, properly so called, are penalties assessed by

the Peers or equals of the offending party; and they are considered as more merciful than fines, because if they are too heavy, a release may be sued by an ancient writ founded upon Magna Charta. The Chapter next proceeds to state, to what extent Amerciaments shall be assessed. A Freeholder was to be amerced according to the degree of his offence, taking care that in a large fine, his *Contenement* should be saved, or not wholly taken from him. This singular expression literally signifies countenance; and is used in the present instance to exemplify that particular species of property by which any person subsists, and which is essential to their rank in life: thus the "countenance of a soldier," says Lord Coke, "is his armour, the books of a scholar his countenance, and the like." The Honourable Daines Barrington shews by several curious quotations, that the word contenementum or countenance, was formerly used as synonymous with entertainment, and he states that this portion of Magna Charta signifies, that "a man shall not be so fined but that he may be able to give his neighbour good entertainment." The next species of amerciament mentioned in the text, is that to be assessed on a Merchant, and this was to be done, *saving his merchandise*, upon the same principle as before, "for trade and traffic," says Lord Coke, "are the livelihood of a merchant, and the life of the commonwealth." The extent of amerciament to be levied on a Villain is the third species contained in the passage now illustrated; and it should be observed, firstly, that the word in this place signifies only one of low or servile condition, a bondman. Of villains in England under the Feudal System, there were two kinds: the first were called villains in gross, and were such as belonged to the person of a lord and his heirs; and the second were those who belonged to a manor, and appertained to the lord thereof only whilst he held it. These were termed villains regardant. But though the condition of a pure villain was such, that his lord was entitled to impose upon him those aids and taillages already treated of, and even to dispossess him of all his property, yet the Great Charter has, with great humanity, a clause in his favour which states that he shall *be amerced with safety to his wainage*. This

word is derived from the Saxon Wagna, which signifies a cart or waggon; and the most liberal meaning of the passage is, that tillage and husbandry shall not be hindered by levying a distress or amerciament. Lord Coke, however, sets the intent of the Chapter in a much more unfavourable, and even a most wretched point of view, since he says, that wainagium signifieth a cart or wain wherewith a villain was to render his service, as to carry the manure "of the lord out of the scite of the manor unto the great lord's land, and casting it upon the same, and the like; and it was great reason to save his wainage, for otherwise the miserable creature was to carry it on his back." It should be observed, that in the Second Great Charter of King Henry III., vide page 123, it was first provided that a villain, although he belonged to another was to be amerced after the same manner, if he gave himself up to the King's mercy. The amerciaments to be assessed on the Barons are next regulated; and Lord Coke remarks upon them, that although the present be a negative Statute, yet custom has so far prevailed against it that fines on the Nobility are reduced to a certainty. The amerciament of a Duke, he adds, is £10; of an Earl £5; of a Bishop holding a Barony £5; of a Bishop amerced for an escape, £100; of a Gaoler for the escape of an attainted felon from careless watch, £100; and for that of a felon indicted, £5. It is farther observed by the same Author, that with respect to Barons, &c. being amerced by their Peers, the whole body of the Peerage is in this point equal, as each of the Nobles is peer to another, notwithstanding the difference of degree. The amerciaments to be laid upon Ecclesiastics, are lastly provided for, and it will be seen by a reference to page 124, in the Second Great Charter of King Henry III. that the words "ecclesiastical person" were first substituted for the more general title of "clerk." Lord Coke observes, that the amercing of priests according to their lay-estates and the degree of their faults, and not according to their spiritual possessions, which were always much more extensive, was a privilege of the Church; and Barrington notices, that Bracton sets down this identical law of amerciaments without regard to the the Statute of Magna Charta,

which seems to prove that it is declaratory of the old Common Law only. For particulars concerning the modern law of amerciaments, the reader is referred to the Dictionary of Jacob and Sir T. E. Tomlins; and for a particular dissertation on the history and various species of amerciaments, to The History and Antiquities of the Exchequer, by Thomas Madox, Lond. 1711. Folio. Chap. xiv. Pages 365-395.

CHAPTER XXIII. Pages 51, 77, 111, 124, 136, 151.

The original intent of this Statute was to avoid the repetition of those factitious exactions, which, during the reigns of Richard I. and John, were made in the King's name for making of bridges, banks, fortresses, and bulwarks, contrary to law. Lord Coke observes, that many of the acts made in the time of King Henry III., refer to that of his grandfather Henry II., because it was celebrated for a Privy Council wise and learned in the laws of the realm; for a Sovereign who carefully defended those laws and the rights of his crown; and for learned and upright Judges, who acted according to the laws. So, adds he, this Statute is a declaration of the Common Law—because it ordains that the custom of his time should be again put in force. The erecting of bulwarks, &c. was however not prohibited by this act, because they could not be built excepting by the King himself or by Act of Parliament. The twentieth Chapter of the Second Great Charter of King Henry III. vide page 124, contains an additional Statute on the preceding subject, and also contains a reference to the time of Henry II. It ordains that river banks shall not be defended excepting at their ancient places and boundaries: and it's intent was, says Coke, that no owner of such banks should in future so appropriate or keep the rivers separate to himself, as to prevent others from fishing, or having passage at them. The Author of the Mirror notices, that even in his time the non-observance of this rule had thrown it out of use. The original word in this Chapter is *Ripariæ*, which, although most commonly translated banks, seems to signify a river or water running between banks.

CHAPTER XXIV. Pages 52, 77, 111, 124, 137, 151.

There were numerous and important benefits contained

in the laws enacted by this very brief Chapter; and the general intention of it was, that trials should be held before Judges of learning and experience in the laws of the country. The term *Pleas*, Placita, in the original Latin of this instrument, signifies pleadings, debates, and trials at law; but it was anciently applied to the public assemblies of men wherein the King presided, and the great affairs of the kingdom were debated. Lord Coke derives the word from the Latin *placendo*, pleasing, for that good satisfaction is given to all who please; but Jacob derives it rather from the Latin *plateis*, or the German *plats*, fields or streets, in which the above assemblies were anciently held. Pleas are divided into two general heads, the first of which is termed Pleas of the Crown, and the latter Common Pleas, some historical particulars of which have already been introduced to the reader. *Pleas of the Crown*, which it is the object of this Chapter to preserve, are those suits which the King commences against all crimes and misdemeanours; because, says Sir William Blackstone, "in him centres the majesty of the whole community, and he is supposed by the law to be the person injured by every infraction of the public rights belonging to that community, and is therefore in all cases the proper prosecutor for every public offence." The persons then by whom these pleas could not be held, comprise all classes of the royal officers, although four degrees only are mentioned in the text. *Sheriffs* were the chief officers under the King in every County, deriving their title from the two Saxon words, Shire and Reve, the bailiff or steward of the division. They are called however in the Latin text of the Great Charter, Vicecomes, which literally signifies in place of the Earl of the County, who anciently governed it under the King, as Lord Coke observes in his Commentary on the First Statute of Westminster, Chap. x. enacted in 1274, the 3rd of Edward I. The next officer mentioned in this Chapter of Magna Charta, is called *Constabularius*, or *Constable*, which is sometimes derived from the Saxon, but other authorities have conceived it more truly to come from the Latin *Comes Stabuli*, a superintendant of the Imperial Stables, or Master of the Horse. This title, however, began in the course of time

to signify a Commander, in which sense it was introduced into England. In the present instance the word is put for the Constable, or keeper of a Castle, frequently called a Castellan, of whose dignity mention will be made in a future note. They were possessed of such considerable power within their own precincts, that previously to the present act they held trials of crimes, properly the cognizance of the crown, as the Sheriffs did within their respective bailiwicks; and sealed with their own effigies on horseback. The English fortresses to which these officers belonged, in the time of King Henry II. amounted to 1115 in number; and it was held that there should be one in every manor, bearing the name of that manor, wherein the Constable had equal rule. As prisons were considered to be an important part of all ancient Castles, these officers are sometimes called Constables of fees, which signifies those who were paid for keeping of prisons. In this part of their duty they appear often to have been guilty of great cruelty; since in the 5th year of Henry IV. 1403, Chap. x. it is enacted that Justices of Peace shall imprison in the common gaol, "because," says the passage, "that divers Constables of Castles within the realm of England be assigned to be Justices of Peace by commission from our Lord the King, and by colour of the said commissions they take people to whom they bear ill-will, and imprison them within the said Castles, till they have made fine and ransom with the said Constables for their deliverance." This Statute, observe Jacob and Tomlins, seems to have put an end to them. The title of *Coroner* implies that he was an officer to the crown, to whom, in certain cases, pleas of the crown, in which the king is more immediately concerned, are properly belonging; and in this sense the Lord Chief Justice of the King's Bench is the principal Coroner of the kingdom. Previously to this Statute of Magna Charta, a Coroner might not only receive accusations against offenders, but might try them; but his authority was afterwards in general reduced to the enquiry into violent and untimely deaths, on sight of the body; although by custom in some places he might make inquisition of other felonies. By the 1st Statute of Westminster, Chap. x. his power was somewhat

more positively explained, since it was there ordained that the Coroner should attach pleas of the Crown, and present them to the Justices, but he can proceed no farther. The last rank of great officers mentioned in this Chapter is that of *Bailiffs*, whose name is derived from the old French word Bayliff, the keeper of a province; but in the present instance, in this term, says Coke, "are comprehended all Judges or Justices of any Courts of Justice;" by all which specifications it is evident, according to a rule cited by the same Author, that "the pleas of our Lord the King shall be specially reserved, that by none now in the kingdom, can pleas be had or held, after the confirmation of the aforesaid Charter is made, without a special commission." This is particularly expressed in the Articles of the Great Charter, vide page 52. It should be observed, however, that an evil intended to be remedied by the present Statute was, that when the above officers held pleas of the Crown, and the culprit being able to read, claimed the benefit of clergy, the Bishop of the Diocese could not be commanded to give it, because no Court inferior to the King's could write to or command the Bishop. For the modern duties of the foregoing officers, see *Jacob and Tomlins*.

CHAPTER XXV. Pages 52, 77.

This Chapter appears in the Articles of Magna Charta, and in the Great Charter of King John only; for in the first issued by King Henry III. it was one of those particulars which were reserved for further consideration, vide page 116. From the time of the Norman Invasion downwards, the Cities and Towns of England were vested either in the Crown, the Clergy, or the Barons: that is to say, of one of these classes were the immediate Lords of Towns, &c. Those which appertained to the King were of several kinds; for he possessed some by the original inheritance of his Crown, which were termed *Ancient Demesne;* and others became his by way of escheat,—want of heirs—attainder, or forfeiture. It has already been observed, that many of the principal Cities and Towns of England were in Ancient Demesne to the Crown, and Madox in his Firma Burgi, whence the materials of this Note have been chiefly derived, states, that Exeter was the Demesne City of William I., he having 285

houses in that City which paid custom. From the reign of William I. also, the King was accustomed to let out the several Counties of the realm at a farm or rent, concerted between the Crown and the holder, or else they were committed to custody, the nature of which is shewn in the Note on Chapter iv. page 166. At the end of the year or term, the holder, who was commonly called Sheriff, gave in his account to the Crown; and it is known from the ancient Revenue Rolls that most of the Counties were let out by the year, and Madox, in his Hist. of the Exchequer before cited, Chap. x. Sect. 5. gives an extensive list of their keepers. Thus, in the reign of King John, William Mareschal paid by Nicholas de Avenel £372 13*s.* 6*d.* and a blank, for the farm of Gloucestershire; and in the time of Henry III., Richard, the King's son, paid £545 8*s.* 4*d.* and a blank, for the farm of Berkshire. When a County was let out at a greater farm than it had been formerly rated at, the advance money was usually termed *crementum*, the increase; which was sometimes paid in palfreys, hawks, &c. as William Ruffus in 1184, gave £10 and four hawks increase, for the County of Buckingham; and William Fitz-Richard thirty-nine hawks in the same year for the same County. The yearly farm of Towns, Boroughs, and Guilds, also formed a part of the ancient Crown revenue: though Madox supposes, that after the Norman Invasion many of the English Towns were private property. It remains to be observed only, concerning this Chapter of Magna Charta, that the word County, in Latin *Comitatus*, is derived from Comes, the Earl, or principal governor of it, to whom the Sheriff was anciently a deputy: that the term *Hundred* is supposed to have been introduced by King Alfred, and to signify a division of country containing ten towns, each of which consisted of ten families of freeholders: that a *Trething*, or Trithing, amounted to the third part of a County: and that a *Wapentake*, which is equivalent with a Hundred, was so called because the governor of the district, when he first entered on his office, appeared in the field on horseback holding a lance, which all the chief men of the Hundred touched with a similar weapon, thereby evincing their unanimity. *Blackstone. Jacob.*

NOTES ON THE GREAT CHARTERS.

Chapters XXVI. XXVII. Pages 52, 77, 79, 111, 124, 137, 151.

As the present divisions of the Great Charter relate to the old English Common Law concerning Wills, it will perhaps tend to assist in their illustration if a few general particulars of that Law be given, previously to considering the nature of the Chapters themselves. The ancient Common Law respecting Wills, was in general peculiarly compulsory; for in the time of Henry II. a person's goods were to be divided into three parts, of which one went to his wife, another to his heirs, and a third he was at liberty to dispose of. If he were childless, his widow claimed half; and if he were a widower with children, they also claimed an equal portion; and these were termed their reasonable shares, as the expression is used in the text of Magna Charta. Such continued to be the law of the land until the reign of Charles I., after which it gradually went out of use and was altered. It was also an ancient custom for the Clergy to claim a gift on the decease of any of their parishioners, called a Mortuary; which was intended as a species of amends to the Ecclesiastics for personal tythes or other duties, which the deceased had forgotten or omitted to pay. The Mortuary consisted of the second best chattel remaining *after* the Lord had taken out his heriot, of which some account has already been given on page 163. The Mortuary was anciently brought into Church along with the body, whence it was sometimes denominated a Corse-present, which implied a voluntary bequest, but which, in the reign of Henry III. had become an established custom. As these Corse-presents differed in various places, they were reduced to the scale which exists at the present time, by the Statute 21. Henry VIII. 1529, Cap. 16. Such were the chief points required in the ancient English testaments; and if a person died without making any disposition of that part of his property which he might bequeath, the King, as the general trustee of the kingdom and father of the country, was empowered to seize upon it. In process of time this branch of the prerogative was given to the Church, which was done, because spiritual men were supposed to have a better knowledge

of what would conduce to the benefit of the soul of the deceased. Hence originated the power of the Church in testamentory concerns, and the proving of Wills followed as a matter of course; for, says Sir W. Blackstone, "it was thought just and natural, that the Will of the deceased should be proved to the satisfaction of the Prelate, whose right of distributing his chattels for the good of his soul, was effectually superseded thereby." As these Ecclesiastics, however, were not accountable to any one for the faithful discharge of their trust, they too frequently abused it; and it appears that so late as about 1250, the Clergy took the whole residue of the deceased's estate after the widow's and children's two-thirds had been deducted, without even paying his lawful debts: for which reason, in 1284, it was enacted, that the Ordinary should be bound to pay the debts of the intestate so far as the goods would extend. In 1357, another Statute provided that in case of intestacy, the Ordinary should depute the nearest and most lawful friends of the deceased to administer his goods; this, however, was only a revival and an establishment of the old Chapter of Magna Charta, as it was first published in the time of King John, though it was ever afterwards omitted.—*Blackstone.* Such is a very brief historical illustration of the laws of Testaments connected with the present Chapters; and it now remains to make a few illustrative remarks upon their particular contents.

The first of these divisions of the Great Charter remained unaltered, from the Articles which preceded the instrument of John, down to the last Inspeximus of Edward I.; but the latter Chapter was one of those which the First Magna Charta of Henry III.—vide page 116—reserved for farther consideration, and which never was restored. The First Chapter mentioned above, refers to debts due to the Crown; and the main intent of it appears to be, firstly, that the King by his prerogative is to be preferred to any other creditor: and, secondly, that the family of the deceased shall not be left without a provision. This is the saving of a former right only, and not the conferring of any new one. The recovery of the King's debts is the first provision made by

these Chapters; and under that expression are comprised all things due to him, as rents, fines, issues, amerciaments, and other duties to the King, received or levied by the Sheriff, as well as debts in the usual sense of the word. The Writ of Summons, says Lord Coke, by which the Sheriff claims the King's debt, is the process, together with the extracts or copies from the Court Roll, under the Exchequer Seal, containing a notice or demand of the debt. This Writ, it was enacted by the 19th Chapter of the First Stat. Westminster, passed in 1274, should immediately be shewn to the party of whom the debt was claimed, and without any fee for exhibiting it, on pain of heavy fine and imprisonment. By the same Statute also, the Sheriff was directed to give a Tally,[a] and to discharge the debtor at his next account to the Exchequer. The King's debts were afterwards collected by the Court of Surveyors, some notice of which has been given on page 174. The intention of the inventory mentioned in this Chapter, was not less to prevent the executor from concealing any part of the property of the deceased, than to secure the payment of the King's debts.

The following Chapter, 27, relates to such persons only as die intestate; who, according to Matthew Paris, were anciently considered as eternally condemned, because by the Canon they were obliged to leave a tenth of their property to pious uses, for the redemption of their souls; which he who did not regarded not his own salvation. There was also no distinction made between one who died without a Will, and a suicide; for the goods of the former were forfeited to the chief lord, and of the latter to the King. As, however, sudden deaths might frequently cause intestates, the Bishops in the course of time received power to make such a distribution from the goods of the deceased as he himself was bound to do, under the term of *Eleemosyna rationibilia*, or reasonable alms.

[a] A stick cut into two parts, on which was marked, either by notches or any other figures, the account between debtor and creditor. In debts paid to the King one of these was delivered, and upon carrying it to the Clerk of the Pipe Office, the debtor received a full acquittance written on parchment.

NOTES ON THE GREAT CHARTERS.

Chapters XXVIII. XXIX. XXX. XXXI. Pages 53, 78, 79, 111, 125, 137, 138, 151, 152.

The four Chapters which are next to be considered have one principal aim, the regulation of Purveyance, and the duties to be taken for the maintenance of Castles; and were intended to remedy the heavy oppressions inflicted by the Governors of Castles upon the surrounding tenants, and even on the military, as well in peace as in war. Some notice of the evil practices of these Castellans has already been given on page 205, but previously to entering upon a particular illustration of the text in this place, it will be proper to give some notice of the nature of Purveyance in general. The term itself is derived of the French *Pourvoir*, to Provide, and its legal acceptation was a providing for the King's household by his officers, who exercised his prerogative of buying provisions, &c. at a certain rate, to the preference of all others, and even without the owner's consent. It embraced also, the power of impressing the horses and carriages of the subject to execute the King's business on the public roads, in the conveyance of timber, baggage, &c. however inconvenient to the proprietor, upon paying him a settled price. In the more ancient periods, when money stood at a very high valuation, the royal household, as well as those of inferior lords, was supported by certain renders of provision, from the tenants of the respective Lordships; and there was also a market held at the Palace gates. So long as the King's Court was kept in any one place, this plan was sufficient, but when it was frequently in motion, the Purveyors were despatched before it to make provision; and in order that the unusual demand should not increase the price, they were furnished with the powers above mentioned. As the Purveyors not unfrequently abused their commissions, the Crown received all the odium with little benefit; and in 1660, Charles II. by the Statute before cited, resigned entirely this part of his revenue. Such was Purveyance, and Lord Coke in commenting on the first of these Chapters, says, that the Constable of a Castle had no right to make Purveyance at all; though the fortress were to be kept for the defence of the realm, as it might be taken for the houses

of the King and Queen only. "Constables," says the Author of the Mirror, "should defend the rights of all persons around them; for there is no difference between taking ill care of them, and robbery; the which is this seizing of their horses, provisions, merchandise, carriages, lodging, or any kind of their goods." By Stat. 1. of the 13th of Charles II. 1661, Chap. viii. this portion of Magna Charta was in part retained in an altered form, since it was there stated, that although Purveyance was taken away by the famous act of the preceding year, yet the Royal progresses were still to be provided for by warrant from the Board of Green Cloth, and the prices at which provisions, carriages, &c. were to be hired were therein regulated. *Stat. at large.* The intent of Chap. xxix. is to restrain the service of *Castle-guard* and fines for non-appearance within due limits. The technical signification of the expression, is an imposition called Castle-guard Rent, laid upon such persons as dwelt within a certain compass of any Castle towards the maintenance of such as watched and kept it; and it was sometimes used to specify the circuit itself wherein those persons resided who were subject to this service. Castle-guard was an essential part of Knight's Service, but it did not extend to the fortress of any other than the peculiar Lord, nor even to that if it were alienated; and the part to be watched, as a door, tower, bridge, or sconce, was to be specified in the tenure. The duty of watching, however, might be discharged either by the tenant or his deputy; but though there was not any certain term ordained by law for the performance or duration of it, the tenant was to receive, says Littleton, Lib. II. Cap. iv. Sect. 3, a reasonable notice, when his Lord hears that the enemies will come, or are come into England; and Lord Coke adds, that he was not bound to attend until such notice was given. If any damage happened to the fortress from careless keeping, the Lord was entitled to distrain for it and recover satisfaction from his tenant. The same Chapter also provides for the easier performance of this office by deputy, or otherwise; as well because lands were formerly held by such persons and bodies as could not discharge their tenure of Knight's Service, as to defend such from being fined for

Castle-guard, as were already doing military duty with the King's army. The same circumstance also freed them from finding a deputy, for serving the King in his person in one place, would, according to the old Common Law of England, discharge a tenant from his service in any other. Chapters xxx. and xxxi. again return to the regulation of Purveyance, as it relates to the taking of carriages and wood. In these divisions it is to be observed, firstly, that the privilege of Purveyance was limited to the Sovereign, for other than the King's Bailiffs were not to seize the carriages, even though they offered payment: secondly, the *Demesne Cart*, or that which was more immediately employed upon a Lord's demesne lands, was to be free from becoming the King's carriage by the old Law of England. The wood is protected on the ground that being part of the subject's inheritance, it could therefore no more be taken than the inheritance itself. *Coke—Statutes at large.*

CHAPTER XXXII. Pages 53, 79, 112, 125, 138, 152.

The prerogative mentioned in this division of Magna Charta, that the Sovereign should hold the lands of a felon for a year and a day, exists also in the French and Danish Laws. The ancient custom was, that in detestation of the crime committed, the felon's property, if it were held of a subject, was to be destroyed: as the houses to be thrown down, the gardens extirpated, the woods eradicated, and the meadow land ploughed up. This was termed waste, and of right belonged to the King as part of the felon's forfeiture; but for the common benefit, the Lords of estates were afterwards contented to resign such lands to be retained by the King for a year and a day, in consequence of which waste was omitted in this Chapter of Magna Charta, and no waste could be made after they returned to the Lord of the fee. The word felony in this Chapter signifies that kind which is punished by death; though nearly all felonies carry with them forfeiture of estates, and thus Sir William Blackstone supposed the word to have been derived of the Teutonic terms *fel*, an estate, and *lon*, the price or value:—that is to say, the consideration for which the land has been resigned, according to the common expression, "such an

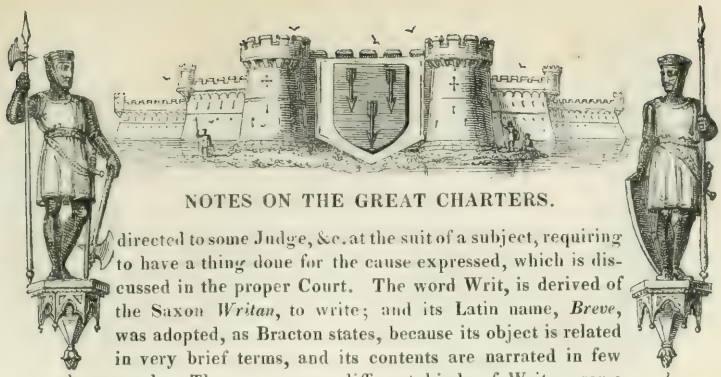
act is as much as your life, or your estate is worth." It is also to be remarked, that those crimes anciently termed *felonia*, are at the present day generally forfeitures of copyhold estates. *Coke—Barrington—Blackstone.*

CHAPTER XXXIII. Pages 53, 79, 81, 112, 125, 138, 153.

The intent of this brief fragment of the old Common Law, was to prevent any persons from appropriating to themselves a fishery of any part of the River Thames which was common property; and thereby committing a *Purpresture*, as it was anciently called, from the French *pourpris*, an enclosure. Every public river or stream, says Lord Coke, is the King's high way, which cannot be privately occupied; and Glanvill adds, in his definition of Purprestures, that to erect any obstruction over public waters across their regular course, was to be considered as such. Such too, are Wears in general, which are large dams made across rivers for the taking of fish or the conveyance of water to a mill; and the peculiar kind mentioned in the text, called Kydells, were dams having a loop or narrow cut in them, and furnished with wheels and engines for catching of fish. They are now called Kettles, or Kettle-nets, and are still in use on the sea-coasts of Kent and Cornwall. The removal of these instruments from the Thames and Medway is directed in several ancient Charters, beside the present; as in 1197 by King Richard I.; in 1199 by John; in 1226-27 by Henry III.; in 1333 by Edward III.; and by numerous Acts of Parliament, of which there is a particular account in Strype's edition of Stow's Survey, Book I. Chap. viii. Henry III. banished Wears from the Thames under the enormous penalty of £10; but it was afterwards enacted that if they were not removed within three months from the Sheriff's notice, the forfeiture should be 100 Marks, or £66 13*s.* 4*d.*

CHAPTER XXXIV. Pages 53, 81, 112, 126, 138, 153.

A Writ, in the legal acceptation of the word, is generally taken to signify the King's precept in writing under seal, and issuing out of some Court to the Sheriff or other person; and either commanding something to be done, or giving commission to have it performed. A Writ too, is considered to be a formal letter of the King's on parchment, sealed and



directed to some Judge, &c. at the suit of a subject, requiring to have a thing done for the cause expressed, which is discussed in the proper Court. The word Writ, is derived of the Saxon *Writan*, to write; and its Latin name, *Breve*, was adopted, as Bracton states, because its object is related in very brief terms, and its contents are narrated in few words. There are many different kinds of Writs; some grounded on rights of action, and others being in the nature of commissions; some mandatory and extra-judicial, and others for granting of remedies. Some Writs are patent or open instruments, directed to all, and others are close or sealed up, and addressed to one person only. The Writ mentioned in the text, is of that class properly termed Writs of Right, its ancient name of *Præcipe in Capite*, being derived from the first words of the instrument. The intent of this Writ, is to provide a great and final remedy for any one who is injured by privation of his freehold; but when one of the King's Tenants in Chief was dispossessed, the precept was called a Writ of *Præcipe in Capite*. The insertion of this Chapter as an article of the Great Charter, appears to have originated from the custom of some Tenants suing out the Writ in the King's Court, for lands which were holden of some other Lord, by which, says the Mirror, he lost the cognisance of his estates and the advantages of his Courts and Feudal Services. Lord Coke observes, that before granting this Writ, oath should be made that the lands are holden of the King in Chief; and if the contrary be proved, then a Writ of Disceit issues against the party demanding the estate, and the real Lord recovers it by a petition of right and an action against his tenant. The chief intent of the present Chapter appears to be, to prevent any false transfer of property under colour of this Writ, from one Lord to another, by which the former lost both his fee and his tenant's services; or, according to the alteration in the Third Great Charter of Henry III. which first inserted the words "*de capite*,"—it might have been to prevent lands from reverting to the King which in reality belonged to some other Lord. The Writ of Right should be first brought into the Court Baron of the Lord of whom the lands are held, but if he do not hold any,

or have waived his right, then it might be brought into the King's. As in this instance, also, it was sometimes falsely pretended that a Lord had waived his right, the present Chapter of Magna Charta restrains any improper use of the Writ Præcipe, by which a Lord might be dispossessed of his right of Court of jurisdiction over his tenants. *Blackstone—Fitzherbert—Horne.*

CHAPTER XXXV. Pages 51, 81, 113, 126, 139, 153.

The uniformity of Weights and Measures provided for by this act, is traced by Lord Coke to the Mosaic Law recorded in Deuteronomy, Chap. xxv. 13-15: "Thou shalt not have in thy bag divers weights, a great and a small. Thou shalt not have in thine house divers measures, a great and a small. But thou shalt have a perfect and just weight, and a perfect and just measure shalt thou have, that thy days may be lengthened in the land which the Lord thy God giveth thee." In the Laws of Canute and William I. it is ordained that the good weights and measures formerly established in the Common Council of the realm, should be faithfully used throughout the same; and by the Statutes of King Edgar, made nearly a century before William I. came to the throne, it was enacted that the standard at Winchester was to be observed throughout the whole realm. In the time of King Henry I. the standard of the ancient ell, which answers to the modern yard, was, according to William of Malmsbury, the length of the King's arm: and standards of weights were originally taken from grains of wheat, whence the smallest modern weight is still called a grain. As these standards were first fixed by the crown, so their subsequent regulations were made by the King in Parliament; and in 1197, in a Parliament at Westminster under Richard I. held, it was ordained that there should be only one weight and one measure throughout the realm: and that the custody of the Assize, or standard weights and measures should be committed to certain persons in every City and Borough. From this ordinance, says Sir William Blackstone, the office of King's Aulnager seems to have been derived, his duty being to measure all cloths made for sale for a certain fee, until it was abolished in 1700 by Stat. 11 and 12 of King William

III. Chap. xx. Sect. 2. The cause of the insertion of the present Chapter in Magna Charta, appears to have been the evasion of King Richard's Assise for money, as Hoveden relates in his Annals, last part, page 822, under the year 1201. He there states, that Hugh Bardolf and certain other of the King's Justiciaries came to St. Botolph's, to seize certain cloths which were not according to the statute, two ells wide within the lists; but instead of taking them in the King's name, the Merchants prevailed on the Justiciaries to leave them for a sum of money, to the damage of many, adds Hoveden, in concluding the passage. By the same statute of 1198 it was ordered, that dyed cloths should be of equal quality throughout, as well in the middle as at the sides; that one kind of yard should be used through the realm; and that the Merchants who sold such goods should not hang up red or black cloths at their windows, nor darken them by penthouses to prevent any from having a good light in buying their cloths. Lord Coke remarks, that the manufacture of broad cloths in England was but limited in the time of Henry III.; but in 1337, early in the reign of Edward III., it was brought to such perfection, that an act was passed to encourage it, prohibiting any foreign cloths from being brought into England. Two peculiar kinds of cloth are mentioned in this division of Magna Charta, Halberjects, or Haubergets, and Russets. The first was a kind of very coarse and thick mixed English cloth of various colours, sometimes used for the habits of monks; and its name was probably derived from the German words *Al*, all, or *haltz*, or *hals*, the neck, and *bergen*, to cover. Russetts were also a monastic dress, made of an inferior kind of cloth sometimes spun by rustics, and dyed by them of a dull reddish hue with bark. John de Neville in the year 1386, ordered by his will that his coffin should be attended by twenty-three paupers in russet cloaks, bearing torches, and carried by as many more in cloth of russet wool, bearing a red cross. The name of this material is doubtless derived of the Latin *russus*, a kind of red. With regard to the ancient state of English Weights, Fabyan shews in his Chronicle, that during the reign of Henry III. it was customary for scales to be suspended in

such a manner as to give the buyer the advantage of ten or twelve pounds in the hundred weight; but the City of London, by a bye-law made about the same time, ordained that the scales should hang even, allowing only four pounds to the buyer: this regulation, however, the Corporation was obliged to defend before the King in Council. The statutes confirming and amending this Chapter of Magna Charta have been upwards of twenty in number; but Barrington observes, that although an uniformity of weights and measures is greatly to be desired, it has hitherto been impracticable, and all such regulations ineffectual. *Hoveden—Coke—Holinshed—Blackstone—Barrington.*

CHAPTER XXXVI. Pages 51, 81, 113, 126, 139, 153.

The intent of this short but important Chapter, was to prevent the long imprisonment of a person charged with a crime, without examining into his guilt or innocence; for the intent of imprisoning such, says Lord Coke, is only for their security that they may be duly tried. There is a striking similarity between this division of the Great Charter, and the act of Habeas Corpus, of which it may in some measure be considered as the ancient prototype; for the purpose of each was to bring an accused person to trial without an extended confinement. The Writ of Inquisition or enquiry mentioned in the text, was denominated '*Odio et Aciâ*,' of hatred and malice, and was anciently called '*Breve de bono et Malo*'—the Writ concerning good and evil—from those words appearing in it; and it was assigned by the Common Law to any imprisoned person, to prevent his remaining in prison until the arrival of the Justices in Eyre when he should be tried. The former was available, says Lord Coke, for the most odious cause, even for the death of a man, which without the King's Writ could not be bailed: but in that instance a Writ of Inquisition was issued to the Sheriff of the County, that he should assume the holding of a Court of Pleas of the Crown, and, in full County, by the oath of true and lawful men, enquire whether the accused person were guilty of hatred and malice; unless he had been previously indicted or called before the Justices in Eyre, because then his accusation became matter of record, against

which this Writ could not stand, being grounded on a surmise. The latter Writ mentioned above, was issued when any person was committed to prison for the death of a man, and was addressed to the Justices of Goal-delivery. It set forth that "if ——— taken and detained in prison for the death of ———, be willing to place himself upon his country for good and evil, and for this occasion, and for no other, is detained in the same, and not by any special mandate of our's, then let ——— be delivered from the prison aforesaid, according to the laws and customs of England." Without this Writ the Justices of Goal-delivery would not anciently proceed to trial. This statute was altered and amended by three others passed in the reign of Edward I.; and in 1354, the 28th of Edward III. Chapter ix. the Writ "*De Odio et Aciâ*" was taken away, because the Sheriffs of Counties made inquests for the indicting of the people, and then took fines and ransoms for their delivery without ever bringing them before the King's Justices. Lord Coke, however, observes, that as it was enacted in 1237 that all statutes contrary to that of Magna Charta should be void, the Writs still remained; and therefore, adds he, the King's Justices in general, have not suffered the prisoner to remain long in prison, but have speedily brought him to trial at their next coming. This practice is also commanded and described in the Statute of Gloucester, 6th Edward I. Chapter ix. *Coke —Statutes at Large.*

CHAPTER XXXVII. Pages 54, 81, 113, 126, 139, 153.

There are five different species of tenures mentioned in this division of the Great Charter, of which it will be proper to give some explanation previously to considering the intent of the statute itself. *Fee-Farm* is when the Lord of an estate, on creation of a tenancy, reserves to himself either the rent for which it was before let, or was reasonably worth, or at the least a fourth part of the value without any extraordinary services. The term *Socage* is derived of the old French word *Soc*, a plough-share; and signifies a portion of lands held by tenure of certain inferior offices in husbandry, or any conventional services that were not military. It was anciently the most popular English tenure, and was of so

wide an extent, that Littleton states that all the tenures which were not held by Knight's Service, were held by Socage. Tenure by *Burgage* bears a very close resemblance to Socage, and it is defined to be where the King or any other person, is Lord of an ancient borough in which tenements are held by a rent certain; whence it has been called a species of Town Socage, as Common Socage is generally rural. *Petit*, or *Petty Serjeantry*, consisted, according to Littleton, in holding lands of the King by the service of giving him some small weapon of war, as a bow, a sword, a lance, an arrow, &c. as it is stated in the text of Magna Charta; and hence, as it was the payment of a certain rent, it has also been considered as a species of Socage. The intent of the present Chapter of the Great Charter, was to prevent the King from claiming by virtue of the tenure of Petty Serjeantry, which could be held of him only, the profit attached to the Wardship of the heir and his lands. The famous Statute of the 12th of Charles II. rendered this portion of the Great Charter obsolete, by taking away Wardship and most of the Feudal tenures; although the honorary services belonging to Grand Serjeantry were not wholly abolished by it. *Coke—Blackstone—Statutes at Large*,

CHAPTERS XXXVIII, XXXIX, XL. Pages 54, 55, 81, 83, 113, 114, 126, 127, 139, 140, 153, 154.

The three divisions of Magna Charta now about to be explained, form the most important privileges, and constitute the principal glories of that instrument: for the protection given by the 39th Chapter, would alone have procured for it the title of the Great Charter. In considering, therefore, the benefits conferred in this part of the text, it will be proper to furnish a short historical account of the ancient English Laws regarding Trials, which will illustrate the whole of the above clauses, at the same time that the particular intent of every Chapter is carefully considered. It has already been shewn on pages 204—206, that the term Bailiffs embraces all degrees of the King's officers, including Judges of Courts, &c.; in which sense also the word is to be accepted in the first of the present Chapters. The intent of the text in this part of the Great Charter, is to regulate that kind of trial

which depended upon the oaths of witnesses and the accused; and therefore the present Chapters with great propriety are in close connection; for as the first shews by what means a man might be put upon his oath; the next declares that until after his trial he shall not be treated as a guilty person; and the third engages that the right of the law shall neither be bought, sold, delayed, nor denied. The expression used in the 38th Chapter, *to be put to his Law*, is equivalent to putting a person upon his oath, which is the medium furnished him by the law of proving himself innocent of any charge. The trials which were anciently used by the Saxons were by Wager of Law, by Ordeal, and by Jury: of which the first and the concluding ones properly belong to the present Chapters, the Trial by Ordeal being referable to the 54th division of the Great Charter.

The Wager of Law received its name from the similarity it bore to that proof which is called the Wager of Battle; for, as in the latter instance the defendant gave a pledge or gage to try the cause by combat, so in the former he put in sureties, or *vadios*, that at a certain day he would take the benefit which the law had provided for him. This Trial is closely connected with the 38th Chapter of the Great Charter; for the putting of one to his *Lex Manifesta*, or Open Law, was to force him to the making of the Wager of Law to prove himself innocent. The expression, Wager, is derived either from the old French *Gager*, to pledge, or from the German *Wægen*, to attempt any thing dangerous. Before, however, the Wager of Law could be demanded of the defendant, the accuser was obliged, beyond his own declaration, to produce his *secta*, suit, followers, or witnesses, whose testimony was to be consistent, and by whom a probable case was to be made out. The actual production of these witnesses became antiquated in the time of Edward III., and the names of John Doe and Richard Roe, the common pledges of prosecution, are all that remain of the "faithful witnesses" required by this Chapter of the Great Charter. When the charge was complete, and the defendant had given security to make his law, he came into Court with eleven of his neighbours, and standing at the end of the bar on the

right hand of the Chief Justice, was asked by the Secondary whether he would wage his law, and admonished by the Judges of the danger of a false oath. If he persisted, an oath similar to the following form was administered to him. "Hear this ye Justices! that I do not owe to ——— the sum of ——— nor any penny thereof, in manner and form as the said ——— hath declared against me, So help me God!" The defendant's eleven neighbours or compurgators, then avowed upon their oaths, that they believed, in their consciences, that he had spoken the truth: thus, whilst he was sworn to faithfulness, they were sworn to declare as faithful a belief. Previously to these oaths being administered, the plaintiff was thrice called into Court; if he did not appear he was nonsuited, though he might bring a new action; but if he appeared, and the defendant, &c. made the oaths, his claim was barred for ever, the Wager of Law being equal to a verdict against him. This species of Trial was never permitted, but in cases where the defendant bore a fair and irreproachable character; and it is supposed to have had its original in the Mosaical law, mentioned in Exodus xxii. v. 10, 11. "If a man deliver unto his neighbour an ass, or an ox, or a sheep, or any beast, to keep; and it die, or be hurt, or driven away, no man seeing *it*: *Then* shall an oath of the LORD be between them both, that he hath not put his hand unto his neighbour's goods; and the owner of it shall accept *thereof*, and he shall not make *it* good." It is also to be traced in the legal codes of most of the Northern nations; and its intent was, that an innocent man of good credit might find a remedy when he was overborne by a multitude of false witnesses. Sir Edward Coke supposed that the number of compurgators required for the defendant, must be eleven, because the Wager of Law being equal to a verdict, his innocence ought to be established by a similar testimony, namely, the oaths of twelve men; for he states, that "every Wager of Law doth countervaile, or is equivalent to a Jury:" and the defendant shall make his law, by twelve hands or persons, namely, an eleven and himself. The most common purposes for which this ancient fragment of English Common Law was used, were actions of debt; where a debt might

have been privately discharged, or the witnesses to its payment all dead. It was also adopted in actions of *detinue*, for goods lent or left with the defendant, who may swear on a book that he does not detain them, and his compurgators must swear that they believe his oath to be true. The Wager of Law is now considered for the most part obsolete, because it threw too many temptations in the way of dishonest men; new forms of action were therefore introduced, in which no defendant is at liberty to wage his law, as in Actions of Trespass, but this ancient privilege is not yet out of force, as it is usual to except against it in the more modern statutes.

The 39th Chapter of Magna Charta is the most celebrated and important portion of that instrument, and provides for the legal and continual use of Trial by Jury. This most ancient and excellent branch of English Common Law, has been used to so very remote an antiquity in this nation, that it appears to have been coeval with its first civil government. By some the original of Juries has been traced up to the time of the Britons, the first inhabitants of this island; but other authors state that they were first introduced into Denmark by Regner, surnamed Lodbrog, who began to reign in the year 820, and from him the Saxon King Ethelred is said to have derived the institution of Trial by Jury. As there are traces of this custom in the laws of all those nations which adopted the Feudal System, as Germany, France, and Italy, Bishop Nicolson attributes its establishment to Odin or Woden, who led forth and governed the earliest colonies of Goths, in Sweden. In the law of Denmark the twelve Jurors are called *Sande-mæn*, true, or right men, but whilst in England they were impannelled to try a particular cause, they there determined all law-suits within the jurisdiction of their Court. In France and other nations, the Jurors were commonly formed of twelve of the vassals or tenants in chief of the Lord, being the equals or peers of the disputing parties who were tried in the Lord's Courts: whilst the King's Courts was formed of the tenants in chief, or the King's own vassals, who also being equal, tried each other. In Scotland, the Trial by a Jury of twelve is mentioned in the laws of King David I., who began his reign in 1124;

and an early notice of it also occurs in the statutes of the Welsh. In England there is actual mention of Jurors as being customary in the reign of King Ethelred, in the tenth century: and in the time of Henry III. the Mayor and Aldermen of London claimed the privilege, that for a trespass against the King, a Citizen should be tried by twelve Citizens; for murder, by thirty; and for trespass against a stranger, by the oaths of twelve and himself. Such is a general historical account of the ancient use of the Trial by Jury, and it now remains to state the manner in which it is conducted, and its particular connection with the present Chapter of the Great Charter.

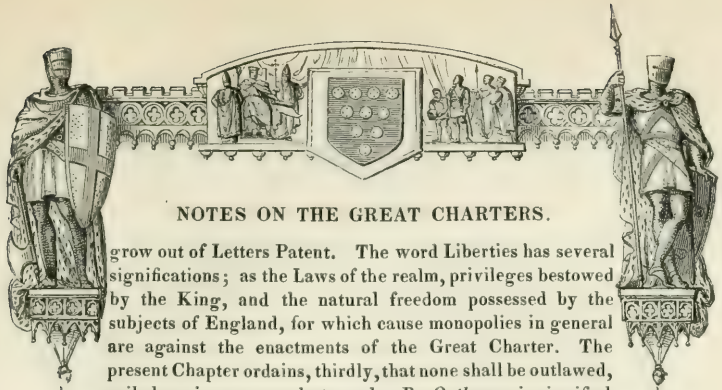
Trial by Jury, called also the Trial *per Pais*, or by the Country, is the examination of a cause, civil or criminal, before a Judge, who has the jurisdiction of it, according to the laws of the land, and by a certain number of men, who are sworn to try it and declare the truth upon such evidence as shall be delivered to them. Trials of this nature are, in civil causes of two kinds, Extraordinary and Ordinary. Of Extraordinary Trials by Jury, the most noted is that called the Grand Assize, which was instituted by King Henry II. in Parliament, as an alternative to the Trial by Battel, to the defendant of a Writ of Right. It was formed by a *Writ of Election for the Grand Assize*, being addressed to the Sheriff, by virtue of which he returned four Knights, who elected twelve others to be joined with them; the sixteen forming the Grand Assize, or Great Jury, by which matters of right were to be tried. A second kind of Extraordinary Jury is that impannelled to try an *attaint*, or a process commenced against a former Jury for delivering a false verdict: it consists of twenty-four of the best men in the County, who are called the Grand Jury, to distinguish them from the first, or Petit Jury.

An Ordinary Trial by Jury is brought on by the parties at issue joining to put themselves "upon their country;" and the Sheriff of the County then receives a Writ to summon on a certain day twelve free and lawful men of the County, to examine into the matter. By the ancient English law, the Jury was to be composed of persons from the neighbour-

hood of the place where the cause of action was declared to be laid; and if none were returned from the Hundred in which the vill was situate, the whole Jury might be challenged for the defect. As it was supposed, however, that these persons might permit their prejudices or partialities to interfere with the Trial of Right, the number of men of the Hundred to be impannelled upon a Jury has been gradually decreased. In the time of Edward III. six were always required, but in that of Elizabeth they were reduced to two: by a Statute of the 4th and 5th of Anne—1705—Chap. xvi. Sections 6, 7, they were abolished in all cases but penal Statutes, and by the 24th of King George II., 1751, Chap. xviii. Section 3, it is ordained that the Jury shall come from the body of the County, but not of consequence, from the vicinity. As the Jurors appear, if they are not challenged by either party, they are sworn well and truly to try the prisoner, and to bring in a true verdict. The indictment is then recorded, and the Jury is acquainted with the crimes laid to the prisoner's charge by the Clerk of the Peace, who adds, "To which indictment he hath pleaded Not Guilty, and for his trial hath put himself upon God and his Country, which Country you are; so that you—the Jury—are to enquire whether he be Guilty of the felony, &c. whereof he stands indicted, or not? If you find him Guilty, you are to make enquiry into what goods and chattels he had at the time that the said felony, &c. was committed, or at any time since: And if you find him Not Guilty, you shall enquire whether he did fly for it; and if he fled for it, what goods, &c. he had at the time of his flight; but if you find him Not Guilty, and that he did not fly, you shall then say no more." The witnesses are then sworn to give true evidence, to speak the whole truth, and nothing but the truth; and when their evidence has been given, the Jury, if they leave the Court to consider of their verdict, are to be kept in a room by a sworn Bailiff appointed, without meat, drink, fire, or candle, until they bring in their verdict. The word verdict is derived of the Latin *veredictum*, a true saying, and it requires unanimity in the whole Jury, otherwise it is no verdict. Barrington states, that by the Scottish law the

unanimity of a Jury is not required excepting in revenue causes before the Court of Exchequer; and that the chancellor, or foreman, gives the verdict even upon the majority of a single Juror, for which reason they consist of an unequal number, namely, fifteen selected out of forty-five returned by the Sheriff. It would seem too, in the time of Henry III., and perhaps in the next reign, that this unanimity was not required from the first twelve Jurors who were impanelled; since Bracton states, that if they could not agree as to their verdict, the number of Jurors was to be increased. As this, however, was found to be equivalent to a new trial, the unanimity of a Jury was insisted on; and probably it was so in criminal cases at least, from compassion to the prisoner, against whom, says Barrington, "if the offence were not proved beyond all possibility of doubt in the most scrupulous Juror, it was thought to be erring on the most merciful side for his single vote to acquit him." When the verdict has been delivered it is recorded, and if it be Guilty, sentence is most commonly pronounced, and a warrant made for the execution of the criminal. Such are the general forms of Trial by Jury.

Sir Edward Coke in commenting upon this Chapter, shews that the evils from which the laws of the land are to protect any person, are recited in the order in which they most affect him; as, firstly, loss of liberty—"no free man shall be taken or imprisoned;" because the freedom of a man's person is more precious to him than all the succeeding particulars, and the word "taken," which occurs in this clause, signifies being restrained of liberty by petition or suggestion to the King or his Council. Secondly, the Chapter declares, that none "shall be disseised of his free tenement, his liberties, or his free customs;" meaning that the King nor others shall not seize upon any of his possessions, and that a man shall not be put from his livelihood without answer. Against this law it seems even a Royal Patent could not stand; for when Henry VI. granted to the Company of Dyers in London, the privilege of searching for, and seizing upon any cloth dyed with logwood, it was decided that the forfeiture was contrary to the Law, as it cannot



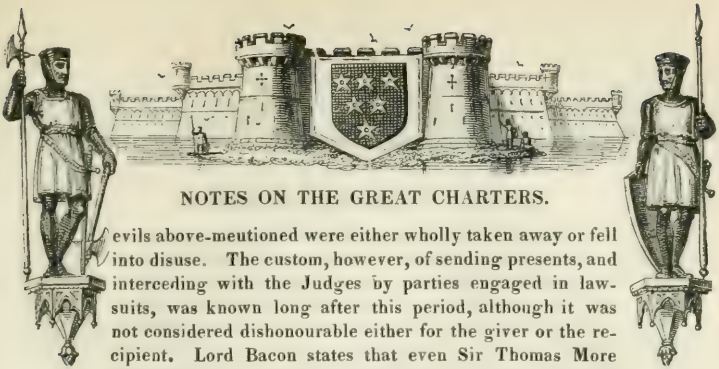
grow out of Letters Patent. The word Liberties has several significations; as the Laws of the realm, privileges bestowed by the King, and the natural freedom possessed by the subjects of England, for which cause monopolies in general are against the enactments of the Great Charter. The present Chapter ordains, thirdly, that none shall be outlawed, exiled, or in any way destroyed. By *Outlawry*, is signified the ejecting of a person by three public proclamations from the benefit of the Law, which, from the time of Alfred until long after the reign of William I., could be done for felony only, for which the penalty was death, and therefore an outlaw being considered as a wolf, might be slain by any man. In the beginning of the days of King Edward III., however, it was enacted that none but the Sheriff should put an outlaw to death; or else that they should be considered guilty of felony, unless he was slain in an attempt to take him. The expression being *Exiled*, is equivalent with Transportation; and it signifies to be banished, or forced to abjure the realm against an individual's consent. For this cause, Sir Edward Coke observes, that the King cannot send any subject of England into foreign parts on pretence of service as an Ambassador, Deputy of Ireland, &c. unless he be willing to go. But though Exile was known and prohibited in the times of the Great Charter, Transportation was not introduced into the English Laws until the 39th of Elizabeth, 1597; when a Statute was enacted for the banishment of such rogues as were dangerous to the inferior people. In 1680, the 18th of Charles II., a power was given to the Judges, at their discretion to execute, or transport to America for life, the Moss-troopers of Cumberland and Northumberland. Blackstone remarks, that this is probably the only instance where the legislature has extended the term of Transportation beyond fourteen years; although in capital cases the King offers a pardon to those who consent to be transported for life. "Many," says the same author, "have at first rejected this gracious offer; and there have been one or two instances of persons so desperate as to persist in the refusal, and who in consequence suffered the execution of their sentence." The Chapter next declares

that none shall be "in any manner *Destroyed* contrary to the Law of the land," which Sir Edward Coke interprets to signify being "fore-judged of life or limb, disherited, or put to torture or death." He also observes, that the words "in any manner" are added to the expression "destroyed," and to no other in the sentence, because they prohibit any means being used by which this destruction may be brought about; thus, if an individual be accused or indicted of felony, his goods or lands can neither be seized into the King's hands, nor granted, nor even promised to another, before his attainder. For, until he be attainted, he ought to derive his subsistance from his own possessions; and when they have been previously granted, it often followed that more undue means and violent prosecutions were used, for private interest, than the ordinary course of Law would justify. In the original Latin of this Charter, the above engagement is followed by the words "*nec super eum ibimus, nec super eum mittemus,*" of which the literal translation is—nor will we pass upon him, nor commit him, &c., but as the margin of the Statutes at Large observes, these words do by no means express the sense of the original; and Sir Edward Coke states, that they signify that none shall be condemned at the King's suit, either before the King in his bench, where the pleas are supposed to be held in his presence, or before any Judge or Commissioner whatever. The last clause of this Chapter provides for the trial of an individual by his peers or equals. The word Peer was probably originally derived of the Latin *Par*, an equal; but was afterwards used to signify the vassals or tenants of the same Lord, who were equals in rank and were obliged to attend him in his Courts. They were also called *Peers of Fees*, either because they held their fees or estates under him, or because they sat in his Courts to judge with him of disputes arising upon fees; and if there were too many in one Lordship, the Lord selected twelve of his tenants who received the title of Peers by way of distinction, whence it is said that Juries have been derived. The Trial by equals is of great antiquity, and Sir Edward Coke cites an instance of its use in the year 1074. Indeed, so tenacious were the Lords of

Parliament of this privilege, that in 1330, when Edward III. demanded judgment of his Barons against Simon de Beresford, who had been a notorious accomplice in the treasons of Roger, Earl of Mortimer, they declared to the King that they were not bound to judge Simon, because he was not their Peer. During the same Parliament, however, they were induced to receive the charge and give judgment against him, in consequence of the magnitude of his crimes; but it was entered upon the Parliament-Roll with the provision, that it should not be considered as a precedent hereafter. Without entering into the peculiar privileges of the Peerage in trials, which form a principal part of Sir Edward Coke's Commentary upon this portion of the Great Charter, it may be observed, that the words "legal judgment of his Peers," imply that the Trial by Jury was lawfully existing and customary before this Statute; and that by the term "judgment" being made use of instead of verdict, is shewn that Peers on a trial are not sworn, but give their judgment upon their honour and allegiance. To be judged according to "the Law of the Land," is the last privilege secured by the present Chapter; which expression Sir Edward Coke interprets to signify the Law of England, in its most extensive sense, binding both the Sovereign and the subject, for which cause it is not written in the name of either. It also indicates that there are places and crimes to which this law does not extend, as to offences committed upon the high-seas, which belong to the cognisance of the Lord High Admiral. It likewise signifies, that none of the foregoing penalties were to be imposed, but after due process of the Common Law.

Having ordained that the Laws of England shall be faithfully observed, the 40th Chapter of the Magna Charta of King John, provides that they shall be administered without expence, denial, or delay; and Lord Coke observes, that the Chapter is spoken in the person of the King, who is supposed to be present in all his Courts of Law; wherefore all his subjects, of every profession and degree, and for all kinds of injuries, may have immediate and perfect justice. The intent of this Chapter, which in the Third Great Charter of

King Henry III., vide page 140, was added to the preceding, was to abolish those fines which were anciently paid to delay or expedite law proceedings and to procure favour. Madox, who in his History of the Exchequer, Chap. xii. gives numerous instances of these fines, states that the County of Norfolk used to pay an annual composition at the Exchequer that it might "be fairly dealt with." In 1219, the 3rd of Henry III., the men of Portsmouth gave two casks of wine, for the King to command some of the Itinerant Justices to hold the plea of that town, according to the Charter of Richard I: and in 1214, the 16th of John, Robert de Ellestede fined in six fox-dogs of one sort and six of another, to have a *pone*, or writ for removing his cause into the Court of Common Pleas. In some cases, the parties litigant offered a portion of what they were to recover to the crown, as a half or a fourth; for Madox states, that in 1222, the 6th of Henry III., Theophania de Westland fined half of her debt of 212 marks, to recover it from James de Fugheleston. Fines for delaying of pleas, judgments, &c. were also very numerous; and the same authority records that in 1156, the 2nd of Henry II., the men of Southwark paid £8 to have respite in their complaint against the men of London. In the 15th of the same King, Hamelin the Dean fined one Norway hawk, and one Iceland Gerfalcon, that his plea might be adjourned to the Exchequer. From these instances may be seen the full intention and force of the present Chapter of Magna Charta. By the expression "to none will we *sell*," were abolished those excessively high fines paid for procuring of right or judgment; the words "to none will we *deny*," referred to the stopping of suits or proceedings, and the denial of writs; and in the engagement "to none will we *delay* right or justice," provided against those delays which were caused by the counter-fines of defendants, who would sometimes outbid the plaintiff, or by the will of the Prince. This Statute is observed by Madox, so far to have effected its intended purpose, that although fines for law proceedings had even from the reign of William I. formed a part of the Crown revenue, they became more moderate after the making of the Great Charter; whilst the



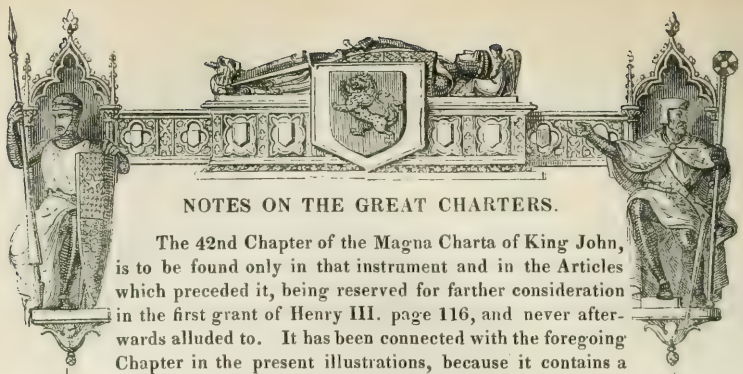
evils above-meutioned were either wholly taken away or fell into disuse. The custom, however, of sending presents, and interceding with the Judges by parties engaged in law-suits, was known long after this period, although it was not considered dishonourable either for the giver or the recipient. Lord Bacon states that even Sir Thomas More accepted certain gifts; but Bishop Burnet has recorded it of Sir Matthew Hale, that he not only refused all private interference concerning any causes, but that he paid for those local compliments which were made to the Judges whilst they were upon the circuit. The same authority also states, that during appeals to the House of Peers, Charles II. would go about to solicit particular Lords for the appellant or defendant whilst the cause was in hearing. Bulstrode Whitelock, likewise, when a Barrister, solicited the Judges with regard to a prosecution for a libel on his deceased father, who had been formerly on the bench; for which the party was afterwards indicted and committed: and Oliver Cromwell, during his Protectorate, interfered with the decision of the Scottish Judges. The concluding words of this Chapter are now all which remain to be noticed, namely, "right and justice." The former, according to Lord Coke, signifies the Law, because it guides as a right line, discovers that which is wrong, is the best birthright of the subject, and is supposed to allude to the Writ of Right, which must be given without fine. The passage then ordains, that right, nor Law, which forms the means of procuring justice, nor justice itself, which is the end of the Law, shall be either bought, sold, or denied. Such are the contents of these important Chapters, which admit of the most extensive commentary and analysis, for it is aptly, though quaintly, observed by Lord Coke in concluding his minute illustrations of these passages, "As the gold-finer will not out of the dust, threds, or shreds of gold, let passe the least crum, in respect of the excellency of the metall; so ought not the learned reader to passe any syllable of this law, in respect of the excellency of the matter,"

CHAPTERS XLI. XLII. Pages 55, 83, 114, 127, 140, 154.

The privileges granted by the first of these Chapters,

were intended for the protection of Merchant strangers; but they were at the same time only a declaration of the Common Law of England; though being an article regarding foreign commerce, it is, as Sir William Blackstone observes, somewhat extraordinary to meet with it in Magna Charta, an interior treaty between the King and his own native subjects. Montesquieu remarks upon this Chapter, with a degree of admiration, "that the English have made the protection of foreign Merchants an article of their national liberty;" and in another part of his "Spirit of Laws," he has asserted, that they know better than any other nation upon earth, how to value the three great advantages of Religion, Liberty, and Commerce. In the time of Alfred, the laws concerning foreign Merchants provided that they should come only to the four fairs, and not remain in England more than forty days. King Ethelred, however, in his law, enacted that the ships of Merchants or of enemies from the high seas, not being wrecked by tempests, coming with goods into any port, should be at peace: and that if they were cast on shore by the waves on the estate of any nobleman, he was to receive them in peace, and protect them and their goods to the utmost of his power. Such are some of the ancient English laws, but Lord Coke observes, that the present Chapter, by its liberal provision, was intended for the encouragement and increase of trade, and also for the well-using of Merchant strangers. The commercial privileges which were granted, are considered by the same learned commentator to be seven in number: to come into England; to depart out of England; to remain in England: to travel through England by land or water; to buy and sell; to be free of evil tolls; and to enjoy the ancient customs. The admission of foreign Merchants into the realm in the time of war, is of considerable antiquity; and they enjoyed this freedom in common with the clergy and husbandmen; in order that those who prayed, ploughed, and trafficked, might be at peace. At a later period, however, Merchant strangers who were found in any country after the commencement of a war, might be treated as open enemies; but the reciprocative principle introduced in the text, is

founded upon the rights of war, of which great care is to be observed in all governments. The protection from "evil tolls," is a security from paying so large a custom or imposition upon any goods, that the fair profit is lost therein, and the trade thereby prevented. The original, word expressive of this, is *Mala Tolneta*, the word toll, or tolt, being derived of the Saxon *Tolnetum*, or *Theolonium*, which signifies a payment in Markets, Towns, and Fairs, for goods and cattle bought and sold. It also stands for any manner of custom, subsidy, imposition, or sum of money taken of the buyer for the importing or exporting of any wares; and the present Chapter of Magna Charta uses the word in its most extensive meaning. The compound word *Mala-tolneta* which appears in the text, signifies bad, or evil tolls, or unjust exactions; and in other Statutes it is rendered into French by the ancient term *Maletout*. After the present Chapter of the Great Charter has declared that such evil tolls shall not be levied, it is stated that Merchants shall be allowed to buy and sell by ancient and right customs; or by those old and lawful duties, which the former policy of England instituted to encourage Merchants strangers. Of the extensive signification of the word customs, some notice has already been taken on page 186; and in the present place it remains to be observed only, that the provisions of this act referred as well to new tolls and customs, as to those which existed previously: and in 1332, the 6th of Edward III., it was ordered that no new customs could be levied, nor the ancient ones increased without the authority of Parliament, because it would be against the enactments of Magna Charta. The present Chapter was considerably altered and amplified from the Articles which preceded the Great Charter of King John in the instrument itself, vide pages 55 and 83; but in 1216, in the first Magna Charta of King Henry III., it received the addition of a clause expressing that Foreign Merchants could not claim its privileges, if they had before been publicly prohibited: vide page 114. Lord Coke observes, that this public prohibition must be by Act of Parliament, and that it referred to Merchants strangers of countries at peace with England.



NOTES ON THE GREAT CHARTERS.

The 42nd Chapter of the Magna Charta of King John, is to be found only in that instrument and in the Articles which preceded it, being reserved for farther consideration in the first grant of Henry III. page 116, and never afterwards alluded to. It has been connected with the foregoing Chapter in the present illustrations, because it contains a similar privilege for persons leaving the kingdom. Lord Coke in his Commentary on Pleas of the Crown contained in his *Third Institute*, Chapter 84, shews that there were certain orders of men under a continual prohibition of quitting the realm, without the King's previous license; though, by the Common Law, every one had liberty to go when he would, provided he was under no injunction to remain at home. Some of the persons who were not to depart without the King's licence, were Peers, because they were the Councillors of the Crown; Knights, because they were to defend the kingdom from invasions; all Ecclesiastics, because they were confined by a special law on account of their attachment to the See of Rome; and all Archers and Artificers, lest they should instruct foreigners how to rival the manufactures of England. Such was the law in the reign of King Edward I., and instances of its use are cited by Sir Edward Coke of the time of Edward III.; when a general proclamation was sufficient to declare the offence of such as infringed it, and the King's writ, under the Great, or Privy Seal, was issued to command their return. Upon contempt of this writ, their goods and lands were seized upon by the Crown until they came home. In 1381, the 5th of Richard II. Chap. ii. an Act was passed prohibiting all persons whatever to go abroad without licence, excepting only the Lords, and other great men of the realm, true and notable Merchants, and the King's soldiers; which was not repealed until 1607, the 4th of James I. Chap. i. In the same reign, however, as a particular guard against popery, were passed various Acts against the sending of any children out of the kingdom, or to any seminary beyond sea: as well as one making it felony for any person leaving the realm to serve a foreign Prince. Licenses for travelling might be granted under the Great Seal, Privy Seal, or Privy Signet, and

without such a permission Ecclesiastics could not anciently even go on pilgrimage. In illustration of this, Lord Coke gives the license granted to an Abbot to visit beyond sea the head of St. John the Baptist at Amiens, the bodies of the three Kings of Cologne, and the coffins of St. Francis and St. James of Galacia, in which is inserted a saving clause, that he shall do nothing, nor procure anything to be done contrary to his allegiance, or in prejudice of the King. By the writ called "*Ne exeat regno*," the Sovereign has still the power of confining his subjects within the kingdom, under severe penalties, because every man ought of right to defend the King and his realm; and to this reason Magna Charta has a reference, when it states that in time of war persons may be restrained from going abroad, "for some short space for the common good of the kingdom." The principal modern use of this writ in Chancery, however, is exactly the same as an arrest at law in the commencement of an action; namely, to prevent the party from withdrawing his person and property beyond the jurisdiction of the Court, before judgment and execution have been obtained. So where there is a Suit in Equity for a demand, for which the defendant cannot be arrested in an Action at Law, an affidavit must be made that there is reason to apprehend that he will leave the kingdom before the conclusion of the suit; and containing sufficient proof of his intention. The plaintiff must also swear that the defendant is indebted to him a certain sum, marked on the writ, for which security must be found; and the defendant must likewise either produce sufficient sureties that he will abide the event of the suit, or the Chancellor by this writ will commit him to prison. Lord Bacon observes of it, that the writ "*Ne exeat regno*," was, towards the latter end of the reign of King James I., not only granted in respect of attempts against the King and state,—where, upon evidence of weight the Chancellor granted it upon application of any of the principal secretaries, without shewing cause—but also in cases of interlopers in trade, great bankrupts, duels, &c. The exercise of this writ as a branch of the King's prerogative, has long since been disused. *Coke—Blackstone—Christian.*

NOTES ON THE GREAT CHARTERS.

CHAPTER XLIII. Pages 55, 83, 114, 127-129, 140-142, 154-156.

The famous Statute of the 12th of Charles II., which was at the least *equal* to a second Magna Charta to England, rendered obsolete the whole of this Chapter; though its privileges had been confirmed and enforced by several previous Acts. Like the whole of the Charter of Liberties, it does but provide for a restitution of the Common Law; and its principal intent was to regulate the service due to the King, from those Honours which belonged to the Crown. The signification of the title *Honour*, is a more noble sort of Lordship, on which other inferior estates depend, by performance of certain services to the superior chief, who is called the Lord Paramount; and his seignory is frequently termed an Honour, not a Manor, especially if it have ever belonged to the King or to an ancient feudal Baron. To constitute an Honour, however, it was essential that it should have been originally created by the King; and that it should be holden of the King; for though the King might grant it to a subject, yet if it were assigned to another, it could not be holden of a subject. The custom of dividing estates into a multitude of parts, and the restraining Statute which was enacted in consequence, have been already noticed on page 195; but before this the Second Magna Charta of Henry III. Chapter xxxix. page 128, had provided some remedy by ordaining, that no man should give or sell any more of his land, but so, that out of the remainder his Lord might have the service which was due to him. The word Escheat, which also occurs in this Chapter, is derived of the old French word, *Escheoir*, to return or happen: and it signifies the return of an estate to a Lord, either on failure of issue from the tenant, or upon account of such tenant's felony. The nature of reliefs paid to the chief Lord at the entry of a new heir, has already been particularly described on pages 162-164; and it was usual for Honours to be let out to the Sheriffs to farm, in the manner already stated on pages 206-207. Madox in his *History of the Exchequer* enters into all the peculiarities of Honours and Escheats, with numerous instances and lists of those which were in the King's pos-

session during several reigns. Vide Chap. x. pages 202-209. Another emendation in the Second Great Charter of Henry III., vide page 128, was, that the King should derive no benefit of any Escheat or tenants, unless they reverted from one who held of him in chief: this is in accordance with the xxxviith Chapter of the Great Charter of John, which also distinguishes between the right of the King and that of a Lord, who have each an interest in the same fee.

With regard to the new Chapter which in the Second Great Charter of King Henry III. was added to the preceding, its general intent will be understood from the foregoing particulars; and its legal peculiarities and process are explained in Lord Coke's Commentary: vide *Second Instit.* Magna Chart. Cap. 32. It was altered and explained in 1290, by the 18th of Edw. I. Statute 1. Cap. 2., and finally made obsolete by the 12th of Charles II. Cap. 24. *Statutes at Large.*

CHAPTERS XLIV. XLVII. XLVIII. LIII. Pages 57, 59, 85, 89, 114, 115.

The above appear to have been the only regulations for the English Forests enacted under King John, and some of their principal features have been considered and explained in the preceding Essay, pages 4-8. The first two of these Chapters appeared in the First Charter of Henry I., and with respect to the others in the close of the same instrument it was ordained, that they should be regarded until a full council of the kingdom should be summoned, when they were to be provided for. It has been shewn, however, on pages 37, 38, of the foregoing Essay, that with King Henry's Second Charter in 1217, another appeared, confined exclusively to the liberties of the Forest; which afterwards became a Statute of no less importance than the Magna Charta itself. This edition was probably first supposed the original one, by Sir William Blackstone in his *Introduction to the Charters*, pages xxii. xli.; where also he disproves the usual belief that a Forest Charter was granted by John. That such a deed was now for the first time drawn up, is evident from the word *Forestariis* in the direction of the Charters, being for the first time omitted in that of 1217,

vide pages 105 and 118; and the few Forest clauses which remained in the Charter of Nov. 12th, 1216, pages 114, 115, were then omitted, evidently because the Foresters possessed a separate Charter of their own. Another argument against the existence of such an instrument by King John, is, that in the xvth Chapter of that by Henry, the outlawry of those persons is reversed which had taken place *before* the King's first Coronation, all others being left at the mercy of the Crown. It is scarcely to be imagined, however, that when the Barons had prevailed against John by insurrection, those persons would be excluded from the benefits of the liberties they procured, who for the last sixteen years had felt the oppressions of the Forests. If, however, this provision be referred to the Charter issued by King Henry's Ministers, the Coronation, Oct. 28th, 1216, would be within a year of its appearance; and the safety granted, in Chapter iv. to other Forest offenders, down to the beginning of the second year of the King's Coronation, exactly coincides with the 6th of Nov. 1217, the time when it may be supposed that the Charta de Foresta was first granted. In the time of Sir William Blackstone, however, the originals and all authentic records even of this Charter were lost; and its only traces were an entry in the Patent Rolls of the 2nd of Henry II. part ii. membrane 2, dated July the 24th, 1218, directing the Forest perambulations to be made and its boundaries to be settled, "according to the tenor of the Charter of Forest Liberties which the King had granted." In the same year too, Madox cites the Great Roll of the Exchequer, shewing that the expenses of this perambulation were charged and levied on the Counties concerned; which record also refers to the King's Charter: the inhabitants of Dorset and Somerset were rated at £100. *Hist. Excheq.* page 285, note g. The conjectures of Sir William Blackstone concerning this Charter, have, however, recently been verified, since the Archives of Durham Cathedral have been found to contain an original of the Forest Charter of the second year of Henry III., endorsed in Latin "The general Charter for the Forests: the fourth general Charter of the whole kingdom, and the *first for the Forests;* under the seals of the

Legate, and William Earl of Pembroke." An account of this instrument will be given hereafter in the descriptive list of original copies of the Great and Forest Charters; and an explanation of the clauses placed at the head of this note, will be found in the illustrations of the various Charters of the Forests.

CHAPTER XLV. Pages 57, 85.

Some hint at the probable reasons for the insertion of this clause has already been cited from Sir William Blackstone, on page 17 of the preceding Essay; and the Chapter never appeared in any subsequent copy of the Great Charter. Dr. Brady supposes that the office of Chief Justiciary was originally derived from Normandy, where he believes him to have been the same as the Grand Seneschal; in England he had extensive power over all the inferior officers of the law, took cognisance of all crimes, and was often General, Viceroy, and Guardian of the kingdom. The ancient Judges and Lawyers, were, usually, superior Ecclesiastics,—which was also according to the Norman custom,—famous for their honesty and piety; and in the year 1070 William I. displaced many of the English clergy from their livings, putting Normans into their places who were well acquainted with this peculiar law; hence in the ensuing reign these Ecclesiastical Lawyers grew so numerous, as to occasion William of Malmsbury to remark that there was no clerk who was not a pleader. The legislature of England then, being thus conducted by Normans, the laws and the language in which they were administered were also in their own tongue, and this continued down to the 36th year of Edward III., 1362, Chap. xv. when it was enacted that pleas should be held in the English tongue and enrolled in the Latin. This latter custom continued to last until the time of Cromwell, when enrollments were began to be made in English; they were altered again under Charles II., but by a Statute of the 4th of George II. 1730, Chap. xxvi. law proceedings were ordained for the future to be recorded in the national language. The use of the Norman tongue in the Courts of England, was, however, commonly essential because the Judges and officers understood no other; the Chief Justiciary

being frequently a military person, and suits being often decided by Peers and Lords of manors to whom the English was not known. From these circumstances it probably was, that the peculiar code of English Law was neglected or unknown by the Justices appointed to administer it; and the Norman customs or absolute injustice were too often substituted in its place. The Common Law of England, says Sir John Davis, is right not written, and more excellent than our written Laws, as Statutes or Acts of Parliament; it being a peculiar invention of this nation, delivered over from age to age by tradition, and even a tradition itself, so learned and communicated. Dr. Brady endeavours to prove, however, that the ancient English Law was actually derived of the Normans rather than the Saxons, and that the followers of William I. judged causes by it immediately after he became King, even before they were acquainted with the English language. Ignorance of the Laws cannot be effectually pleaded by any person, but in the Statutes of King Ethelred it is ordained, that "a Judge who shall give any unjust judgment, shall pay to the King cxx. shillings; unless he be heard to swear that he did not know how to judge rightly." The Laws of Canute add that he shall be dismissed from his legal dignity, if he do not redeem it from the King, according as it shall be allowed him. The transgression of the Laws by Judges is punishable by loss of office, fine, and imprisonment; and it is related that in the time of Richard II. Earl Typtoft, a Chancellor, was even beheaded for acting on the King's Warrant against the Law. A Judge who ignorantly condemns a man to death for felony, when his crime is not felony, is liable to be fined, imprisoned, and lose his office: and if one who has no jurisdiction of a cause give judgment of death and award execution, the Judge and the officer who executes the sentence are both guilty of felony. *Brady's Complete Hist. of Eng.* Pref. to the Norman Hist. II. 154. *Jacob* and *Tomlins—Blackstone.*

CHAPTER XLVI. Pages 58, 85, 114, 128, 141, 155.

The intent of this division of the Great Charter was to secure to the founders and tenants of Abbies the possession

of their rents, &c. during the absence of a superior; and the principle of law upon which the Chapter was written, has already been explained in the Note on Chapter V., to which the concluding clause—originally added in the First Great Charter of King Henry I. vide page 115,—has a particular reference. This right is claimed by the Barons in the text, pages 114, 128, four different ways. As the *founders* or *patrons* who originally received the right of presentation, by having been the builders and maintainers of Abbies, &c. by holding a charter of presentation from the King, and by ancient tenure and possession in them annexed to an estate. The person who first erects and endows the building is the founder; for Lord Coke observes, that if a common person found an Abbey or Priory with possessions of small value, and the King afterwards endow it with great possessions, yet the common person is the founder. If a common person found a Chantry, and afterwards the King translate it and make it a Monastery, and endow it with possessions, yet the common person is in law the founder, because he gave the first living. The whole of this Chapter is now rendered obsolete, as well by the act of Charles II. as by that of the 31st of Henry VIII., 1539, for the Dissolution of Religious Houses.

CHAPTERS XLIX, L, LI, LII. Pages 57, 87.

The greater part of the remainder of the Great Charter of King John, is peculiar to that instrument only; and alludes to circumstances connected rather with the history and proceedings of the Monarch, than to any restoration of the ancient laws and liberties of England. In consequence of this, the whole of the Chapters cited above were omitted in all the subsequent copies of Magna Charta; and instead of them were inserted several new and more important clauses, which rendered the third grant of King Henry III. the most valuable instrument of the whole series. On this account it stands the first article in the English Statute books, whilst the preceding Charters are left unnoticed, and even the subsequent confirmations are considered only as useful repetitions. Such being the character of the present Chapters, it will be seen that much of their illustration may be referred to the historical parts of the foregoing Essay, but

that their particular intention may be rendered perfectly clear. A few of their principal features will now be explained.

The first Chapter promises a restoration of the hostages and charters which had been delivered to the English in security of the peace, &c. These hostages were first taken about the year 1208, during the time of the Interdict; when King John fearing that the Pope might absolve all his subjects from their allegiance, demanded pledges of all the Barons, &c. whom he suspected, to be delivered to him as securities for their future fidelity. Many of them, says Dr. Brady, gave their sons, their nephews, or their nearest relations to the messengers whom he sent for them. In July 1211, when he marched into Wales and subdued it, he received twenty-eight hostages from the nobles of that nation, who were executed on account of a revolt in the year following. A conspiracy being also formed in England in 1212, whilst he was re-marching towards Wales, caused him to demand other pledges from his Barons; but Eustace de Vesci and Robert Fitzwalter both fled, the former into Scotland and the latter into France. After the conclusion of Magna Charta, on the 18th of June, 1215, King John by his writ directed to Stephen Harengod, dated from Runnemede, informed him that a firm peace had been made between the Barons and himself, on the Friday following the Feast of the Trinity, when he received their homage. He commanded him also to do no injury to the Barons on account of the former discord; to release all prisoners and hostages detained by reason of it; and that such of the fines and penalties imposed for it as had not been paid, should not be levied. The Charters mentioned in this Chapter as having been delivered for security to the King, may be considered as Grants of Estates, Privileges, &c. both corporate and personal.

History appears to be nearly silent as to the particular reason why the dismission of those persons named in Chapter 50, was considered so essential as to be made an article of the Great Charter. It may with great probability be supposed that they were all foreigners, since the next clause relates to the sending of the foreign soldiers out of the

kingdom. The only information which can be procured of them is collateral, and more from the evidence of national records than from actual history, by which they are shewn to have been in possession of considerable wealth, being probably great favourites of the King. Madox states, in his *Hist. of the Exchequer*, page 264, that in 1210, the 11th of John, Engelard de Cigony received the sum of 10,106 marks 8½*d.*, or £6737 7*s.* 4½*d.* for that Monarch, by Letters under the Great Seal addressed to Robert de Braibroc. The same authority also prints some particulars of an aid granted for the King's passage to Ireland in the following year, in which the office of Engelard de Cigony seems to be referred to; as he is there said to place 225 marks, or £150, in the King's Treasury at Bristol: vide page 421. In the same year too, see page 640, he appears to have been Sheriff of Gloucestershire, and a Justice Itinerant of that County; but in 1226, the 11th of Henry III., he was in debt to the Crown, and had a respite for payment by the King's command until the Feast of St. Michael: page 682. In the *Testa de Nevill*, or a record of the Royal estates, heirs, &c. made in the time of Henry III. and Edward I., Engelard de Cygony is stated to hold the Manor of Bensinton with four hundreds and a half, in Oxfordshire, at the King's pleasure, but his service was not known. Vide the printed edition of this record, Lond. 1807, folio, pages 118, 120, column i. In the Patent Rolls of the eighth year of the same Sovereign, 1223-24, the custody of the lands and heirs of Henry de Bertlay was committed to Oliver, the son of Engelard de Cigony; and in his 19th year, 1234-35, Engelard himself was made Keeper of the King's Forests of Windelsore and Odiham, the former of which he held in 1235-36, according to the Patent Rolls. The Park or Forest of Odiham, in Hampshire, however, seems to have been taken from him in the 20th year of Henry III., since the Original Rolls contain an order to demand it of him; and soon after a notice that both the Forests of Odiham and Windesor, with the Manor and Castle of Odiham, were committed to Reginald de Whitchurch. He appears to have died in 1243-44, the 28th of Henry III., since the Patent Rolls contain an order that "Engerard de Cigony

may freely make his Will," Membrane 7; and in the Original Rolls of the Exchequer, for the same year, is entered an order to the Sheriff of Hampshire, that the carriages and replenishing which were received at Odiham from the executors of the will of Engelard de Cygoin should be delivered to William de Montfort. *Calendarium Rotulorum Patentium*, Lond. 1802, Folio, pages 13, 17, 18, 20. *Rotulorum Originalium*, Lond. 1805, Folio, pages 1, 6. Of Gerard de Athyes there does not appear to be any notice in the records, but the calendar to the Patent Rolls mentions one John de Athy, who in the 10th, 11th, and 12th of Edward II., 1318-1319, was Captain and Admiral of the King's fleet against the Irish and Scots. In 1319, the 12th of his reign, he gave the same person in fee "all that hereditament in the Island of Raghery in Hibernia, lately belonging to Hugo Byset one of the adherents to the Scots." Vide *Calend. Rotul. Patent.* pages 82, 85, Membranes 22, 4, 1, 29. Neither Andrew nor Peter de Chancell, occur in any of the ordinary historical records, but Guy de Chancell, who is also mentioned in Magna Charta, is stated by Madox in his *Hist. of the Exchequer*, page 445, as accounting in 1214, the 15th of John, for the Honour of Gloucester, both of the ancient and novel feoffment, in the amount of 327 Knights Fees, and a 10th and 20th part of a fee. The same authority also states, page 497, that he was at the same period, farmer, or keeper of the Barony of William de Beauchamp, and accounted to the King for £458 4*s*. 8*d*. arising by Taillage within the space of two years past, as well as for 100 marks—£66 13*s*. 4*d*.—more, being the Taillage of the men of the suburb of Worcester. Although the name of Geoffrey de Martin be not mentioned by Madox, nor in the ordinary printed records, yet in the *Hist. of the Exchequer*, page 304, Elyas Martin, who was probably one of his brothers, likewise mentioned in the text, in 1206-7, the 8th year of John, gave the King 20 marks, or £13 6*s*. 8*d*., with 2 marks—£1 6*s*. 8*d*.—to the Queen's Gold, that certain rolls of the Justices at York might be produced, to convict Vives, the son of Aaron, of false charters. Philip Mark and his brother, and Geoffrey, his nephew, are the last persons whose dismission is insisted on in this

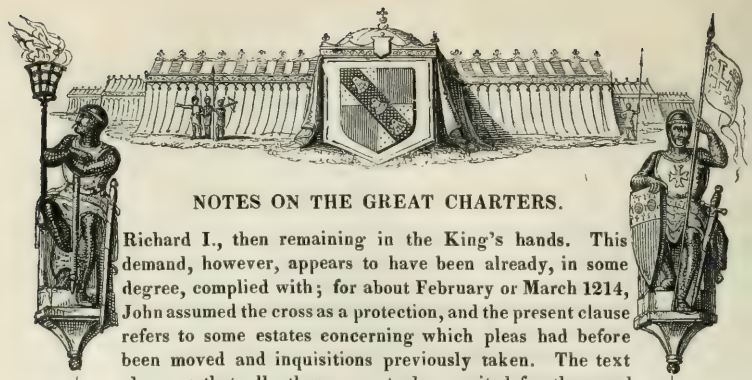
Chapter. Of the former there is but little information extant; but Madox shews, page 502, Note q. that in 1222-23, the 7th of Henry III. he paid the King 100 shillings as a farm rent during pleasure: and in the 10th of the same reign, 1225-26, Ernald, servant to the Bishop of Carlisle, brought an appeal against him for robbery and breach of the peace, which he was to answer before the Justiciaries of the Common Bench within the Octaves of St. Hilary. *Hist. of the Exchequer*, page 542. Philip Mark also held the office of Sheriff of the Counties of Nottingham and Derby in the reign of King John—see Madox, p. 59,—and in his account in the Exchequer, he is stated to have paid 145 marks, £96 14*s.* in part of a debt of 200. The same authority, page 683, mentions one Peter Mark, who might possibly be one of the brothers, who in 1226-27, the 11th of Henry III., had respite by writ of the Chief Justiciary for a debt due to the King of 1050 marks—£700—until the Octaves of St. Hilary. Such then are a few of the slight and scattered particulars, which are yet extant concerning the persons whose names appear in this Chapter of the Great Charter; but even from these limited notices it may be imagined, that extortion in their bailiwicks, added to their having been foreigners, formed the principal grounds of the charges against them.

The 51st Chapter of John's Charter provides for the dismission of certain alien soldiers, distinguished by the names of foreign Knights, Cross-bowmen, and stipendaries, who had been probably hired by the King to assist him against his Barons. The use of these foreign forces it is probable came in with the Normans, for Captain Grose observes, in his *Military Antiquities*, Vol. I. Chap. iv. that from William Rufus to John they were employed in the English army. Even under the Feudal System, paid, or stipendary troops, both national and foreign, were engaged by the Monarchs, with the sums given by such as commuted for their services; and their duties were castle-guards, foreign garrisons, or the protecting of the marches, or borders of the kingdom, adjoining Wales and Scotland. Their pay was sometimes out of the privy-purse, or else they were suffered to live at free quarters; and, being actually a

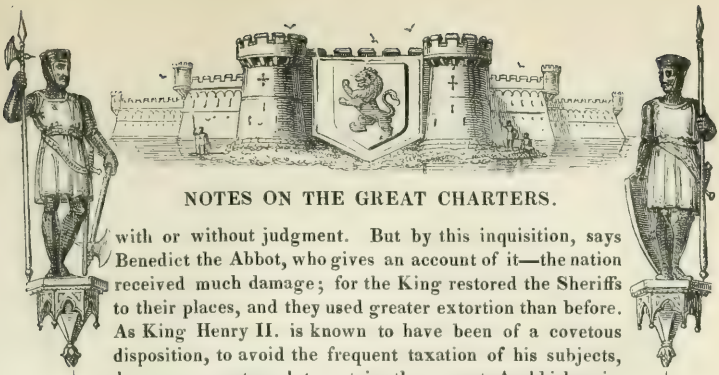
party of wandering brigands of all nations, ready to embrace any side for hire, they gave rise to that cause of complaint alledged against them in the text, that they came with horses and arms to the molestation of the kingdom. The name by which they are occasionally designed in the barbarous Latin of their time is *Ruptarii*, Breakers; but they are also called Brabançons, Provençales, Coterelli, and Flemings, from their countries; or Router or Ryter, from the German *Ritter*, a horseman or knight. One of the principal causes, however, of these forces being added to the national army, was when the Sovereign had any dispute with his Barons; but so early as May the 27th, 1202, King John wrote to the Knights of Flanders, Hainault, and Brabant, to come into his service ready with horses, arms, and armour, that they might possess an honourable rank in his troops, promising them rewards both in lands and money according to their service. Rymer's *Fœdera*, edit. 1816, Vol. I. Part i. page 86. Sometimes, however, there was an agreement made with a foreign leader who was to furnish certain forces for a stipulated sum; as in the covenant between Henry I. and Robert, Earl of Flanders, on May the 17th, 1101, the former was to pay 400 marks of silver yearly, for which the latter was to provide 500 soldiers for the King's service, either in England or Normandy, with three horses for each. On November the 14th, 1308, Edward II. issued an order to the Constable of Burgundy, to pay the arrears due to several officers, particularly to Elias de Ponte and William Alarde, for their stipends and those of their followers. As the Cross-bow, or *Hand-Arbalist*, is said to have been introduced into France by the first Crusaders, and to have been used early in the reign of Louis le Gros, which began in 1108, it may probably account for the *Balistarii*, or Cross-bowmen, being foreigners; and on April the 2nd, 1322, the Seneschal of Gascony was directed to raise 200 Cross-bowmen, and 200 Lancemen, both foot, and to bring them to Newcastle upon Tyne, that they might be ready to march against the Scots in the following October. *Fœdera*, Vol. I. Part i. page 6. Vol. II. Part ii. pages 61, 482. *Milit. Antiquities*, Vol. I. pages 58, 148. Such then was the

entertainment of foreign soldiers in the English army; and with regard to the dismission of those employed by King John, it appears that even some time previously to the conclusion of the Magna Charta he had dismissed all the foreign mercenaries who were in his troops by the advice of the Archbishop of Canterbury, as he relates in a letter to the Pope, containing an account of the conduct of his Barons. *Blackst. Introd.* page xii. Towards the end of the convention on Runnemede, however, John issued the following writ, previously to his retiring to Odiham, in Hampshire. "The King to Hugh de Bova"—a French exile and one of his foreign Captains—"Greeting, We command you, by that fidelity which ye have held to us, not to retain any of the foreign Knights or servants which were at Dover; but to make them depart without delay to their own country. In testimony of which thing, Witness myself at Runimede, Tuesday, the 23rd day of June, in the xviith year of our reign." 1215. *Blackst. Introd.* page xxiv. In the new disputes, which as it is stated in the preceding Essay, pages 32-34, followed even the actual grant of Magna Charta, King John retired to the Isle of Wight and afterwards to Dover, where he met the messengers whom he had despatched beyond sea to collect a large body of troops from Poictou, Brabant, and Flanders. To this army and to the King himself, Matthew Paris attributes the most inhuman cruelties, almost equalling those inflicted upon the Martyrs; and he calls them "the Soldiers of Satan,"—"Men of Belial," and "the Ministers of the Devil." So great, however, were the advantages which these forces enabled John to gain over his Barons, that they had recourse to the desperate expedient of inviting a foreign Prince into England; —vide the preceding Essay, page 37,—and in the middle of their successful civil war their Sovereign died suddenly. *Blackstone's Introd.* page xxvi. Brady's *Hist. of England*, pages 503, 505.

The 52nd Chapter of King John's Great Charter, provides for the restoration of any possessions which had been unjustly seized on during his dispute with the Barons; though at the same time it has a retrospective effect by referring to such as were seized in the reigns of Henry II. and



Richard I., then remaining in the King's hands. This demand, however, appears to have been already, in some degree, complied with; for about February or March 1214, John assumed the cross as a protection, and the present clause refers to some estates concerning which pleas had before been moved and inquisitions previously taken. The text observes that all others were to be respited for the usual term of the Crusaders, by which was signified the space of three years, allowed to all who took the cross, during which time their debts bore no interest, even from the day on which they joined the Crusade; nor could a crossed debtor be cited before any court, until his return from beyond the seas. On account of these privileges, and from their suspicions that King John had assumed the Cross only to secure himself and his possessions, the Barons probably inserted that peculiar clause in the text, providing that if he did not go upon the Crusade, he would immediately grant them their petitions. The same method of restoring such lands, &c. as had been seized by King John, appears to have been put into practice upon former occasions of a similar nature. In 1208, he seized upon the temporalities of all those Ecclesiastics who published or complied with the Interdict of Pope Innocent III.; and forced many of them to quit the kingdom. In 1213, as it has already been related in page 10, of the preceding Essay, they were recalled, and the day following his absolution, he sent, says Dr. Brady, in his *History of England*, Vol. II. page 487, his precepts to all the Sheriffs of England, that they should cause to meet at St. Albans, on the 4th of August, four lawful men, with the Steward of every town, which they kept in their own hands, that enquiry might be made of what damage the Bishops had sustained, what had been taken from them, and what was due to them. Of the former seizures referred to by this Chapter, there occurred several instances in the unquiet days of King Henry II.; and in the year 1170, he sent certain itinerant Barons to travel through England, and to enquire what the Sheriffs and Bailiffs had taken of his subjects during his excursion to Normandy: for what forfeitures and possessions had been seized, and whether



with or without judgment. But by this inquisition, says Benedict the Abbot, who gives an account of it—the nation received much damage; for the King restored the Sheriffs to their places, and they used greater extortion than before. As King Henry II. is known to have been of a covetous disposition, to avoid the frequent taxation of his subjects, he was accustomed to retain the vacant Archbishoprics and Abbies in his own possession, which procured him the dislike of the Clergy. During the civil commotions too, which took place between the King and his Sons, many possessions were seized upon, and several castles were destroyed. Early in the reign of Richard I. when he was preparing to go upon the Crusade in 1189, he sold many of the Crown-lands, Manors, Castles, &c. to furnish supplies for his expedition; but after his return in 1194, he disseised Godfrey, Bishop of Winchester, of two manors and the Castle and County of Southampton, which he had formerly bought of him. He also demanded back the other Crown-lands from their various possessors, asserting that they had been mortgaged only and not sold: and Hugh, Bishop of Durham, was obliged to surrender the Castle and County of Northumberland, by the King's order to Hugh Bardolf. In the September of the same year, however, Richard sent his Justices Itinerant through all the English Counties, to enquire, by the inquest of twelve men belonging to each, concerning all offences which had been committed against him, of forfeitures and escheats, and of the lands of Wards, to whom they were let out to farm and at what value; the articles of which, were nearly similar to the Chapters on Ward-lands in King John's Magna Charta. Tyrrell's *Hist. of England*, Vol. II. Part i. For the illustration of Chapter LIII. Vide page 237.

CHAPTER LIV. pages 89, 115, 128, 141, 155.

The present statute, which was retained in its original form throughout all the preceding instruments, was intended to provide a remedy for the old Common Law, by which a woman, as well as a man, might have an Appeal of Death for any of her ancestors. An Appeal, in the sense in which it is here used, does not imply a complaint to any

higher Court for injustice done by an inferior, but signifies an accusation, from the Law Latin *Appellum*, a call; and denotes an original suit at the time of its first commencement, or a charge by one private subject against another, on account of some considerable crime, demanding for it a penalty, rather because of his own peculiar damage, than for an offence against the public. The particular species of action indicated in this Chapter, is called an Appeal of Death, which is of two kinds, murder, properly so named, and manslaughter; these being the only crimes for which an Appeal can be brought for a relation, all others referring to the parties themselves. The Appeal of Death, however, cannot be brought by every relation, but only by a widow for the death of her husband; and by the heir male for that of his mother or ancestor, which heirship was extended, by an ordinance of King Henry I. to the four nearest degrees of blood. The Writ of Appeal is a natural consequence annexed to the widowhood of a woman like her quarentine, and is allowed her on account of the loss of her husband; if therefore, she marry before, or during, her Appeal, it is entirely lost; and if after judgment, he cannot demand execution. Nor can she have execution unless she personally pray it; an instance being on record in which a Judge visited a pregnant woman, to know if she would have execution, and on her desiring it the Appellee was hanged. With respect to the Appeal of an heir, it is essential that he be an heir male in the ordinary course of Common Law at the time of his ancestor's death: but even to this rule there are three exceptions. If the deceased leave an innocent widow, she only, and not the heir, shall have the Appeal; if there be no widow, and the heir be accused of the murder, then the next heir-male shall bring the Appeal; and if the wife kill the husband, the heir may Appeal her of his death. The principal value of Appeals of Murder can hardly be estimated at the present day; though anciently there were reasons for thus prosecuting offences rather than by indictment. Blackstone and Barrington suppose, that they had their origin in those times when a pecuniary satisfaction was paid for the expiation of great crimes; and Princes

were accustomed to pardon even murder, considering it as homicide—for a certain sum entitled a *Weregild*, to be paid to the nearest relation. This custom was derived from the Northern nations; and the Saxon laws contain the several Weregilds established for homicide, from the death of a peasant to that of the King himself. That of the former amounted to 266 thrysmas, and the latter to 30,000; each thrysma being about the value of a modern shilling. The Weregild of a subject was paid entirely to the relatives of the deceased, whilst that of the King was equally divided between the public and the Royal family. Even the laws of Henry I. contain an account of such offences as were, or were not, redeemable by Weregilds; and Blackstone supposes, that as they fell into disuse, the private process which was used to secure their payment, was still continued to ensure satisfaction from the offender, whence Appeals might have had their origin. An acquittal in the case of an Appeal, protected the party from being afterwards indicted for the same offence; and it was provided by the Statute of Westminster, Chap. XII., that in such a case, the Appellor or prosecutor should suffer a year's imprisonment, pay a fine to the King, and make restitution to the defendant for his imprisonment and infamy: which provision was of considerable effect in discouraging the common use of Appeals. If, on the contrary, the Appellee were found guilty, he suffered the same judgment as if he had been convicted by indictment; the King having no power to pardon him, any more than he had to remit the payment of the Weregild. A concurrence of all parties, however, might produce a remission of punishment, since the intent of an Appeal was to compel the defendant to make a pecuniary recompense; "And," adds Sir William Blackstone, "the antient usage was, so late as Henry the Fourth's time, that all the relations of the slain should drag the Appellee to the place of execution;" a custom derived from the same barbarous nations as first introduced the law itself. An Appeal of Death must be brought within a year and a day after the murder, and the count must set forth the fact, the length and depth of the wound, the weapon with which it was effected, and the

year, day, place, and hour of its commission. The Lord Chief Justice Holt has called this right of Appeal, "a most noble birthright of an Englishman," because it is one, of which it has been shewn that the Crown cannot deprive him. One of the consequences of an Appeal of Death or Treason, was the Trial by Battel, duel, or single combat, a Norman custom introduced into England by William I.; but a species of vindictive justice, which was common to almost all nations, and a presumptuous call upon Providence to give the victory to the right party. In the Trial by Battel which followed an Appeal, the parties were obliged to fight in their own persons, excepting the Appellant or prosecutor were a woman, a priest, an infant, one of the age of 60, or lame or blind, in which cases they might counterplead the Battel, and compel the defendant to put himself upon Trial by his Country. It was perhaps from this cause of the Appellee losing his right of defending himself by combat, when a woman prosecuted an Appeal, that Bracton says her Appeal is confined to the death of her husband murdered within her arms, if she could declare it from having seen it. The Trial by Battel remained in force long after it had fallen into disuse: and one of the last times it was awarded in England was in 1631, the 7th of Charles I., in the case of Lord Rae and Mr. Ramsay, "The King," says Christian, in his *Notes* to Sir William Blackstone's *Commentaries*, Vol. IV. page 348, "by his commission appointed a Constable of England to preside at the Trial, who proclaimed a day for the duel, on which the combatants were to appear with a spear, a long sword, a short sword, and a dagger; but the combat was prorogued to a further day, before which the King revoked the commission." Rushworth's *Historical Collections*, Vol. II. page 112. Another of these Trials occurred in the County Palatine of Durham, in 1638; but the most eminent of latter times was that held in Tothill Fields, Westminster, in 1571, the 13th of Elizabeth, and even of that, Sir Henry Spelman remarks, that it was "not without great consultation and disputation of the right." On November the 17th 1817, a Writ of Appeal was tried in the Court of King's Bench, against Abraham Thornton for the

supposed rape and murder of Mary Ashford; when he demanded a Trial by Battel against the Appellant, Mr. Ashford, the brother of the deceased. After time had been given for due consideration of the novel circumstances of the case, the Appellant represented by his counsel that he did not feel justified in accepting the challenge, and the defendant was discharged without bail on Monday, April the 20th 1818. The particular forms of Appeals for Murder, &c. and Trials by Battel, will be found in Sir William Blackstone's *Commentaries*, Vol. IV. page 314, — III. p. 337. — IV. pages 346, 418, 421, 424; and with respect to the last instance, vide an interesting work, entitled, "*An Argument for construing largely the right of an Apellee of Murder, to insist on Trial by Battle; and also for abolishing Appeals.*" By E. A. Kendall, Esq. Lond. 1818, Second Edition, Octavo. See also the *Gentleman's Magazine*, Vol. LXXXVII. part ii. page 464. LXXXVIII. part i. pages 172, 365. This ancient fragment of the Common Law, was taken away by a Statute of the 59th of George III.—1819, June 22nd.—Chap. xlvi. entitled "An Act to abolish Appeals of Murder, Treason, Felony, or other offences, and Wager of Battel, or joining issue, and Trial by Battel, in Writs of Right." *Statutes of the United Kingdom*, Vol. VII. page 723.

Immediately following this Chapter concerning Appeals, in the Second Great Charter of King Henry III., another was first inserted for regulating the County Courts held by the Sheriffs, vide pages 128, 141, 155; and its general intention was to prevent them from interfering in those which belonged of right to the estates of the Barons. The whole Chapter, as it is observed by Lord Coke, is but a declaration of the ancient Common Law and custom of the Realm; for County Courts were first founded by King Alfred, when he re-modelled the Legislature of England, and in the time of King Edward the Elder, who died about the year 925, they were held monthly according to the present ordinance of the Great Charter. The original County Court of the Saxons, however, assembled twice in the year, or, if there were occasion, more frequently; and it was called the Shire-gemote, or Folemote, signifying the

meeting of the Shire or of the people. In it presided the Bishop of the Diocess and the Earl of the County; but in the absence of the Earl, the High-Sheriff or Viscount supplied his place. The County Court was only inferior to the King's Court in power, being above the Tything Court, the Hundred Court, and the Trything Court, from all of which Appeals might be made to the present, and in it were first tried Ecclesiastical causes; secondly, such as related to the King; and thirdly, those which concerned private persons. In the reign of William I. the King's Court was separated into several divisions, as it has already been related on page 197; and when that Sovereign parted the Civil and Ecclesiastical jurisdictions, he dispensed with the Bishops sitting in the County Courts, and granted them the privilege of holding Courts of their own, for the determination of Ecclesiastical matters. In 1267 too, the 52nd of Henry III., the Statute of Marlebridge, Chapter x. declared that it was not essential for either the Barons or the Clergy to attend the Sheriff's Tourn; and when they became thus independent, the Earls wholly neglected them, and their dignity was considerably diminished; Pleas of the Crown were ordained to be held only by the King, or by his special authority; and the County Court is now intended for the trial of little causes, not exceeding the value of 40*s*. to be held every month or oftener by the Sheriff. By virtue of a special writ, however, entitled a *Justicies*, the County Court may hold pleas of many real actions, and of all personal ones to any amount; since this writ empowers the Sheriff for the sake of dispatch, to do the same justice in his Court, as might otherwise be had at Westminster. The real judges in this Court are the freeholders of the County, and the Sheriff is the ministerial officer. The great concourse of freeholders supposed to attend at it, is the reason that all Acts of Parliament were used to be read there by the Sheriff at the end of every Session: why all outlawries of absconding offenders are there proclaimed: and why all popular elections which the freeholders are to make,—as formerly of Sheriffs and Conservators of the Peace, and still of Coroners, Verderors, and Knights of the Shire,—must ever be made in full

County Court. Having explained the nature of this assembly, it is next to be observed that the present Chapter of the Magna Charta, first provides that it shall be held monthly, according to the ancient Saxon custom; but the clause following, stating that where a longer term had been customary, a longer term should still be used, was altered in 1548, the 2nd year of Edward VI. Chap. xxv, which made the holding of County Courts uniform throughout England, 28 days being accounted for every month. The regulation of the times for holding the Sheriff's *Tourn*, is also a restoration of the old Common Law; "forasmuch," says Lord Coke, "as the Bishop with the Sheriffe did goe in Circuit twice every yeare, by every Hundred within the County,—it was called *Tour*, or *Tourn*, which signifieth a circuit or perambulation." The original establishment of this Court of Record, is also attributed to King Alfred, and it is actually no other than the *turn*, or rotation of the Sheriff, keeping a Court Leet in every Hundred of the County. It may therefore be considered as the principal County Court Leet, being held twice every year, within a month after the Feasts of Easter and St. Michael: and if it were held in any other than the accustomed place, manner, and time, the Sheriff lost his Turn for that season and the profits of the Court, whilst the proceedings of the Court itself were entirely void. The power and advantages which were derived by the Sheriff, from the holding of his Courts in general, were the causes of their being held more frequently than they were entitled to be, to the great inconvenience and even vexation of the tenants; and hence this restraining Statute which confines them within the ancient and legal bounds. The new Chapter contained in the Second Great Charter of Henry III., next proceeds to declare the manner in which the *View of Frankpledge* should be taken by the Sheriff, which consisted of a Court of Record formed out of that last mentioned, and was the Court Leet for a particular Hundred, Lordship, and Manor, held once in the year only, before the Steward of the Leet, being the King's Court granted by Charter to the Lords of those Hundreds or Manors. The Court Leet was originally divided

from the Sheriff's Tourn by the King, that the tenants of particular Manors might have their complaints heard and speedily redressed by their own Lords, without either the expense or the delay of the Tourn; for which privilege, however, Lord Coke observes, that a duty was paid to the Lord towards the charge of procuring the grant. The word *Leet*, is supposed to have been derived from the Saxon *Leod*, the people, of whom it signifies a general meeting or Folk-mote, as the Sheriff's Tourn was anciently called. As this assembly is open to all the tenants of a manor, it was usually held in the open air; and Spelman considers it in contra-distinction to the Hall-mote, or Court Baron, which consisted of the Free Tenants only and met in the Lord's hall. The word Leet also signifies a Law-day, in several of the ancient English statutes; but the Court Leet as well as the Sheriff's Tourn has long been declining, the affairs connected with them having gradually devolved upon the Quarter Sessions. The View of Frankpledge, which is likewise mentioned and regulated in this Chapter of the Great Charter, relates to the view or examination of the free-pledges, of which, every man not particularly privileged was anciently obliged to provide nine, or be sent to prison, as well for security of his truth to the King, as that they should be bound for his continual appearance to answer any complaint. This custom was derived from the Lombards, and it affected every free-born person beyond the age of fourteen, religious persons excepted, whence the securities were called Frank-pledges, or sureties for the faith of freemen. When King Alfred regulated the divisions of the kingdom, of which some particulars have already been given on page 207, each County was divided into Hundreds, containing ten towns, and each of these was again separated into ten families of freeholders called a *Tything*, the heads of which reciprocally became bound and responsible for each other; so that of every ten householders throughout the kingdom, each individual had nine pledges or sureties for his good conduct. Upon this this account, therefore, no person was anciently suffered to remain in England more than 40 days, unless he were enrolled in some Tything; and for this purpose, the Sheriffs

used at every County Court to take the Oaths of Allegiance, from young persons as they reached the age of fourteen, and to see that they were entered in one or other of these Societies, whence the expression *View* of Frank-pledge. In the event of any transgression, it was first ascertained in what pledge the offender was, and then those of that pledge either produced him within 31 days, or satisfied for his offence. One of the principal inhabitants of the Tything was called the Headborough, or Tything-man, who was annually appointed to preside over the rest; he was also in some places denominated the Borsholder, or Borough's-Ealder, being supposed the discreetest person in the whole division. From these Tythings of Frank-pledges is imagined to have been deduced another Saxon institution of Guild Companies, which is derived from the word *Guildan* to pay, inasmuch as every person was obliged to pay somewhat towards the support of his company; which common fund was for the purpose of making a compensation, when an offence was committed by a Brother of the Guild. This also was the origin of modern Trading Companies; but as Sir William Blackstone observes, the great and general security of the Tything having fallen into disuse, it was succeeded by the method of causing suspected persons to find particular and special securities; a custom mentioned so early as in the Laws of Edward the Confessor. For the proper keeping of this View of Frank-pledge, the present Chapter of the Great Charter makes several important provisions. It was firstly, to be that "the King's peace might be kept, and the Tything might be wholly kept as it was accustomed to be;" and Lord Coke observes, that by the due execution of this law, the realm was preserved in such entire concord, that "no injuries, homicides, robberies, thefts, riots, tumults, or other offences were committed; so as a man with a white wand might safely have ridden before the Conquest, with much money about him, without any weapon throughout England." Keeping the Tything, the same authority interprets to signify the ascertaining, that no person above the proper age was omitted to be enrolled in some pledge or other. It was also provided here, as well as in the former clause of the pre-

sent Chapter, that the Sheriff hold his Courts "without seeking occasions," which was a restoration of the Common Law, that no Sheriff, Coroner, Goaler, or other of the King's ministers, should take occasion to demand any reward for doing of his office but of the King only; or else they were to restore twice as much, and be farther punished at the King's pleasure. See the *Statutes at Large*, Vol. I. page 56. Third of Edward I. 1275, Chapter xxvi. "But," continues Lord Coke, "after that this rule of the Common Law was altered, and that the Sherife, Coroner, Goaler, and other of the King's ministers might in some cases take of the subject, it is not credible what extortions and oppressions have thereupon ensued." And it is lastly farther to be observed, that the Chapter states that the Sheriff "be content with so much as he was wont to have for his view-making in the time of Henry II.:" by which is signified the profit arising from the Court of Tourn. The reason and force of the peculiar references to the reign of Henry II. in this Chapter, have been already noticed and explained on page 203.

In the Second Great Charter of King Henry III. vide page 129, appears a new Chapter, the general features of which, greatly resemble the 39th division of the same instrument on page 128, already explained on page 236. The Hon. Daines Barrington in his *Observations on the Ancient Statutes*, page 29, states that the device of giving lands to a Monastery and afterward resuming them again by tacit consent, was intended to defraud the secular lord of his suits and services; for which the Religious House had doubtless a proper consideration. There was also the chance of succeeding to the estate in case of defect of heirs, which anciently was not an uncommon occurrence; for the owner had not power to make a will but by custom, and even when he was empowered, there was considerable difficulty in finding any person who could reduce it to writing. The loss arising from the bestowing of lands upon Monasteries, &c. was two-fold: firstly, the services due from such estates, originally created for the defence of the realm, were unlawfully with-drawn; and secondly, the chief lords were defrauded

of their rights to escheats or reversions, wardships, reliefs, &c. for which cause, says Lord Coke, many ancient deeds of feoffment had a clause stating, that it should be lawful to give or sell the lands to any, excepting Religious persons and Jews. The former of these exceptions, however, discovered several means of evading this Statute: as the buying of lands holden of themselves, the taking of leases for very extended terms, as 1000 years or more, and several classes of Ecclesiastics conceived themselves to have no interest in the meaning of the Statute. These deceptions gave rise to the Statute of Mortmain, which was passed in 1279, the 7th of Edward I., by which it was ordained that gifts, alienations, &c. reverting to Religious persons by any art or contrivance, should be forfeited. To avoid the expression of the Statute, says Lord Coke, they next pretended a title to the land, commenced an action, and procured a writ that the tenant should surrender, he having by collusion made default, whereupon they recovered the estate; entered by judgment of law; and so committed fraud by Statute. When this new deception was discovered, it was taken away by the Statute of Westminster the Second, made in 1285, the 13th of Edward I. Chapter xxxii.; which ordained that enquiry should be made into the title of the demandant, and if it could not be proved, the estate should revert to the true Lord. But even then, when all possession of lands by gift, lease, buying, or recovery was prevented, they were conveyed by feoffment, or otherwise, to various persons, for the use of certain Ecclesiastics and their successors, by which they received the profits. This, however, was declared to be within the Statute of Mortmain, by an Act passed in 1391, the 13th of Richard I. Such were the foundation and general progression of all Statutes of Mortmain, which derive their name from the French words *Mort*, dead, and *Main*, a hand; since estates, &c. granted for pious purposes, were as it were in a dead hand as to their profits, &c. and could never revert to the donor, nor to any common or temporal uses. Sir William Blackstone, however, supposes the most probable derivation of the term Mortmain to be, that the members of Ecclesi-

astical bodies,—by which estates were usually bought, were professed to God, and considered as dead persons in law; and therefore lands holden by such, might with great propriety be said to be held *in mortua manu*. The insertion of the present Chapter of Magna Charta, and the enactment of the various Statutes which restrained the establishment of Mortmains, were little more than a restoration of the Common Law, as it existed in the time of the Saxons, about 60 years before the reign of William I.; at which period, it was essential to procure a license from the King and the intermediate Lord, before estates could be alienated to any community by which the rents, services, &c. should be entirely lost. And if no such license were obtained, the King, or other Lord, might enter upon the lands so alienated in Mortmain as a forfeiture. It is related by Speed, that William I. demanding the cause why he gained the realm by one battle, which the Danes could not do by many; Frederic, Abbot of St. Albans, replied, "because the land which was for the maintenance of military men, was given to Religious persons for the support of holy votaries." To this, William answered, "that he would assist the kingdom, if, through the strength of the Clergy, it were weak, unprovided of soldiers, and subject to foreign invasion:" and he therefore took away many of the revenues of the Abbot, and of others also. Within two centuries after this period, however, the largest and most considerable endowments of Religious Houses happened; and the several schemes already noticed for avoiding the various Statutes of Mortmain were resorted to. After the Dissolution of Religious Houses by Henry VIII., the Statutes of Mortmain remained suspended for 20 years, by Stat. of the 1st of Philip and Mary, Chapter viii.; during which time, lands, or tenements, were allowed to be granted to any Spiritual Corporation, without any license whatsoever. An extended history of the Law of Mortmain, with the privileges respecting it annexed to various communities, and the Statutes relating to it, will be found in Lord Coke's *Institutes*, Vol. I. Book i. Sect. i. page 2^b; Sir W. Blackstone's *Commentaries*, Vol. I. Book ii. page 268; Jacob's and Tomlins' *Law Dictionary;* and in *The Statutes at Large*, Vol. I. page 9.

Another new Chapter, first inserted in the Second Great Charter of King Henry III., vide page 129, related to the manner of taking Escuage; though, as in other instances, it only restored the ancient custom used in the reign of King Henry II. The whole of this new Chapter, however, may be viewed as an improvement of the ancient law on Scutage, contained in the 12th Section of the Magna Charta of John, vide pages 55, 73; which was reserved for consideration in the First Charter of Henry III., vide page 116, and inserted in the present form in all the subsequent instruments. The word Escuage, says Littleton, in his Tenures, Book ii. Chapter iii. Section 95, is called in Latin *Scutagium*, and signifies the Service of the Shield; a species of Knight's Service, though not incident to every Knight's fee. Several particulars concerning it, have already been given in the Notes on Chapter XII. pages 179, 180, and the reference to the time of King Henry II. has been explained in a former Note on page 203. Scutage, as well as every other species of Feudal aid, was taken away by the Statute passed in the 12th year of Charles II. Chap. xxiv. Section 4.

Chapters LV, LVI, LVII, LVIII, LIX.
Pages 56, 58, 89, 91, 93.

The whole of these Sections are to be found only in the Great Charter of King John, and the Articles which preceded it; and like some other sections of those instruments are connected more with the historical events of the times, than with any restoration of the ancient laws and liberties of England.

The contents of Chapter LV. of King John's Magna Charta, very much resemble the privileges restored by Chapters XX-XXII. of the same instrument, vide pages 75-77, the intent of which has been explained on pages 200-202, of the present annotations. Some difference, however, exists between them; since the former were inserted for the regulation of ordinary and legal amerciaments, whilst the latter referred only to unjust fines and amerciaments, contrary to the law of the land, meaning particularly those which had been imposed in consequence of the discords

between the King and his Barons. Dr. Brady and Tyrrell, in their account of the taxes, &c. levied by King John, mention several amerciaments, both of his Barons and Ecclesiastics, imposed as penalties either for their quitting him, or not assisting him during his wars in France and other places. Vide Dr. Brady's *Compl. Hist. of Engl.* Vol. ii. page 520; Tyrrell's *Gen. Hist. of Engl.* Vol II. Part ii. page 807. Some of these taxes were, however, granted to him; but several others which were particularly remarkable for their enormous amount, were exacted against the consent of those by whom they were paid, according to the histories of Matthew Paris, and his Continuator Roger Wendover. Thus, about December, 1203, when the whole of Normandy, excepting the City of Rouen, had revolted from King John, he attributed the loss of it to the desertion of his Barons; and consequently seized upon a seventh part of their goods, by Geoffrey Fitz-Peter, his Chief Justiciary, without having had a Parliamentary grant of them. At the same time too, Hubert Walter, Archbishop of Canterbury, levied a similar tax upon the whole Clergy in the Conventual and Parochial Churches. In 1205, when the Archbishop and William Marshall, Earl of Pembroke, dissuaded the King from going with his army into Poictou, he exacted a considerable fine from the whole of his subjects, on the ground that they would not follow him to assist in recovering his French dominions. This was the second time he had taken an aid against the consent of the nation; and Matthew Paris terms it "*infinitam pecuniam*," an immense sum of money. A third, also asserted to have been an illegal one, was levied about February, 1207; and it amounted to a thirtieth part of the goods of all his subjects both Clergy and Laity. The truth, however, appears to have been, that although it was granted by the Common Council of the kingdom then assembled at Oxford, yet it was taken against the consent of the Ecclesiastics, who were privileged not to be taxed in such a manner; and even the Barons had no choice but to grant it. Vide Tyrrell's *History*, page 731; where the fact is particularly examined: this aid was also for the recovery of the English possessions in France. At

the close of King John's wars in Ireland, when he expected an invasion of the Welsh, about September 1210, he summoned all the Ecclesiastics and Religious Orders of England to meet him at London; upon whom he levied considerable fines, which were reported to amount to £100.000. The White, or Cisterian, Monks, alone, paid £40.000 of silver additional; and their Order became so much reduced, that it was dispersed throughout all the other Monasteries of England; the King having a particular hatred to it, on account of the continual opposition made by its members to the payment of his taxes. In 1211, King John amerced a Scutage of two marks of silver upon every Knight's Fee of such as had not attended him into Wales; and in 1214 he took three marks of those vacant Bishoprics, Knight's Fees, Wards, and Escheats, which did not furnish assistance towards his expedition to Poictou. These, then, were probably some similar "unjust and illegal fines and amerciaments," to those alluded to in the present Chapter of the Great Charter; but as King John's reign terminated so very soon after its conclusion, it is likely that nothing was effected beyond the remission of all amerciaments then actually pending.

The 56th, 57th, and 58th Chapters of King John's Great Charter, refer to his proceedings against the Welsh during the wars with that nation, which disturbed a considerable portion of his reign; but the second clause has also a retrospective power, in providing for the restitution of unlawful forfeitures made under Henry II. and Richard I. In 1157, the Welsh having made several incursions into England, the former of these Sovereigns raised a considerable army, and at length overcame them; made open ways into Wales through the woods, had the chief places of strength delivered up to him, and received homage of all the Welsh nobility. During his absence, however, in France, in 1165, their invasions of the King's possessions were renewed, though after an arduous campaign, Henry and his army returned to England without gaining any advantage against them, and with considerable loss; which he revenged upon their hostages by castration and the putting out of their

eyes. The seizures and forfeitures in Wales under Richard I. were perhaps originally produced by the conduct of Rhys Fitzgriffyn, King of South-Wales; who, in October 1189, being conducted by Prince John into England, was so much displeased that Richard did not meet him as his father had done, that he suddenly left Oxford and returned into Wales, without so much as speaking with the King. This contempt was followed by a Scutage throughout Wales of 10*s.* upon every Knight's Fee. Perhaps, however, the particular injuries referred to in the text, were those in 1198, levied partly to supply two expeditions into Wales in that year. One of these was by Hubert, Archbishop of Canterbury, and Chief Justiciary, when he dispossessed the Constables of the Castles of Hereford, Bridgenorth, and Ludlow; and put in others to keep them for the King's use. The other expedition was by Geoffrey Fitz-Peter, for the assistance of William de Brause, an English Baron; whom Gwenwynwyn, son of Cadwallan, had besieged in Maud Castle, where upwards of 3000 Welshmen were defeated or slain. Added to these, Richard is also recorded to have levied considerable sums by seizures, fines, compositions, &c. in which the Welsh must have largely participated; and Ralph de Coggeshale reports of him, that none of his predecessors raised so much money upon the people as he did within five years after his return to England, *Brady's Hist. of Engl.* Vol. II. page 459. Of King John's conduct towards the Welsh, some particulars will be found in other places in this work. The text of King John's Great Charter declares, that all these disputes shall be decided by a threefold law, peculiar to that place to which they might refer: as the law of England, for English tenements; that of Wales, for Welsh possessions; and that of the Marches, for those estates situate on the borders of the two countries. The term Marches, is derived either from the German word *Marck*, a mark, limit, or boundary, or from the old French *Marque*, *signum*, and it signifies the line of distinction between two territories, considered as enemies countries, which was anciently the case betwixt England, Wales, and Scotland. The Welsh Marches are situate on the Western

and Northern sides of Shropshire. They were governed by certain of the Nobility called Lords Marchers, or Marquesses of the Marches of Wales, who possessed a kind of Palatine authority in their respective territories; administered justice to the inhabitants in their own courts; and were gifted with several privileges and immunities, particularly, under certain circumstances, with an exemption from the Royal Writ. The dignity of Lords Marchers is supposed to have originated in the grants issued by the Kings of England, that their Barons should possess such estates in Wales as they could win from the Welshmen; they having found the attempt of reducing the country by a great army almost impracticable. At a later period, several strong towers having been established on the frontiers of Wales, for the protection of England, the lands in their vicinity were subdued, and the Barons were permitted to exercise such a government as would preserve them, holding them of the King in Chief, by Knight's service, and thus by degrees introducing the English laws and tenures. That the English, too, might be the more encouraged to conquer Wales, they were made Barons of the places which they acquired; and at one period they amounted to twenty-one in number. They maintained a castle, with a force sufficient to suppress any attack, for which cause the English towns were erected close to them, and were gifted with considerable privileges; there being about 143 castles in the country of Wales. The Council of Lords Marchers also anciently held a Court, called the Court of the Marches of Wales, where pleas of debts and damages, not above the value of £50, were tried and determined; but any suits concerning their titles were to be pleaded by the Common Law, in Westminster Hall; where, likewise, fines on their possessions were levied, and on no others in Wales. According to the Red Book of the Exchequer, the Lords of the Marches claimed to provide silver spears for supporting the Canopy of purple silk, used at the Coronation of the Sovereigns of England; but this probably soon fell into disuse. Their number continued to increase until 1282, when Llewellyn, the last Prince of Wales, was

slain, and the title was given to the son of Edward I.; after which, no more Lords Marchers were created, as the Welsh in general submitted to the English Sovereigns. In 1354, the 28th of Edward III., the Marches of Wales were annexed to the Crown by Stat. I. sect. 2; and in 1535, 27th of Henry VIII. Chap. xxvi. Wales was united with England, and the Laws of the Marches abolished. The Law of Wales which is also mentioned in this part of the Great Charter, refers to that code which was left to the ancient inhabitants, with such parts of the country as were not taken from them. It consisted of the Statutes drawn up by Howel Dha, King of South Wales, in 940, and his Council at "the White House on the River Taf;" which were formed of the ancient laws and customs of the country, then fallen into decay, amended and increased. An interesting account of the older laws and the formation of this code, may be seen in Percy Enderbie's "*Cambria Triumphans*," Lond. 1661. Fol. pages 33, 236. In 1284, the 12th of Edward I., however, by the "Statute of Wales," the laws of this Principality were reduced much nearer to the English standard; and their peculiarities were still farther altered by subsequent Statutes, until the Union Act of Henry VIII. already cited, entirely connected the Welsh with the Laws of England. Coke's *Fourth Institute*, Chap. xlvii.-xlviii.: Blackstone's *Commentaries*, Introd. Sect. 4.: Camden's *Britannia*, edit. Gough, Vol II. page 395*: Pennant's *Tour in Wales*, Vol. II. Appendix, No. ii.: *Statutes at Large*: Jacob's and Tomlins' *Law Dictionary*.

The 58th and 59th Chapters of this Charter relate to two events in the life of King John, and his connection with the Princes of Wales and Scotland. In 1211, the Lords of the Welsh Marches made several heavy complaints to John against Llewellyn the Great, Prince of North Wales, concerning his ravages and incursions into England, and the King assembling an army marched towards the country, whence, however, he soon returned, with considerable loss. In 1212 he entered Wales, and, as many of the Welsh nobility were on his party, Prince Llewellyn, who had married Joan, the King's natural

daughter, sent her to him to make terms of peace, which were afterwards confirmed between the Prince and the King. Hostages were then given, and Llewellyn promised the King towards his charges 20,000 head of cattle and 40 horses. The Patent Roll of the 16th of John, 1215, Membrane 9 records a warrant for the delivery of certain Welsh hostages, probably some of those mentioned in the text, in the following terms:—"That the Hostages of Lewellyn should be restored to his Messenger, at the entreaty of the King's illegitimate daughter. The King to Engelard de Cygony, Greeting, Know ye, that at the petition of our daughter, the wife of Llewellyn, we have restored to the same, Llewellyn Keuvret, Bleum' Thegwaret, and Merwyth, pledges of the said Llewellyn. And therefore we command you, that those certain securities be liberated to his messenger, in conformity with these Letters Patent. Witness, myself, at Munemouth, the 18th of December." Rymer's *Fœdera*, Vol I. Part i. page 126. There does not appear any farther notice of the restitution of these hostages, or of the son of Llewellyn, who was probably David, afterwards Prince of South Wales.

John's agreement with Alexander II. King of Scots, which occupies the 59th Chapter, refers to the capture of his father, William I., in 1173, at Alnwick, in Northumberland; when he covenanted to restore all that he had taken from England, to do homage for his crown, and give, as security, the Castles of Roxburgh, Berwick, Sterling, and Edinburgh. On November the 22nd 1200, the same King did homage to John at Lincoln, and then demanded of him the restoration of the counties of Northumberland, Cumberland, and Westmoreland, with all their Appurtenances, as his ancient right and inheritance; but as they came to no agreement, William returned discontented into Scotland. But though this claim remained unanswered until the King's death, in December 1214, he had entered into such a friendly compact with John, as to send his son Alexander over to England, where he was knighted in 1212. In the civil wars of the Barons, they invited Alexander to join them, after the conclusion of Magna Charta; and in 1216

he entered England, where Norham Castle was surrendered to him upon terms. As he marched farther into the country, he took homage of the men of Northumberland, and the Barons of Yorkshire fled to him for protection from John's advancing army, before which, however, he was at length forced to retreat into his own kingdom. He afterwards married Joanna, King John's eldest daughter, by his third Queen, Isabella of Angoulême, at York, on June the 25th 1221. It will be observed that in the articles of Magna Charta, pages 58, 59, the last two Chapters have the provision afterwards inserted in the text attached to them by a brace. Its intent was, that none of the engagements which the King had entered into should be broken by his restitutions to the Princes of Scotland, or of Wales.

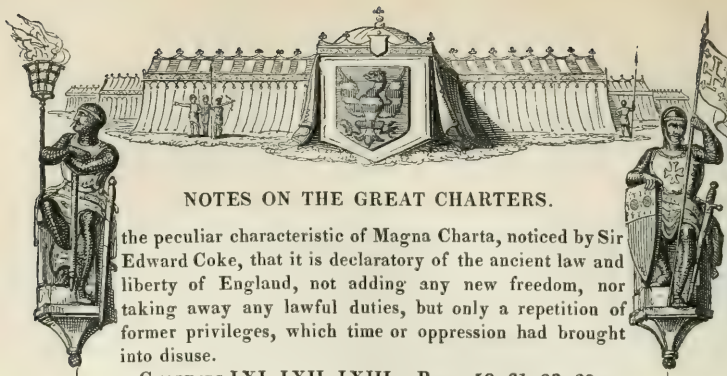
CHAPTER LX. Pages 59, 93, 115, 129, 142, 156.

The insertion of this clause of the Great Charter, by which all the engagements and limitations between the King and his Barons, &c. are made binding on them towards their own dependents—has been sometimes attributed to John himself. "For," says Dr. Henry, in his *History of Great Britain*, after mentioning this probability, Book iii. Chap. iii. Sect. 2, "though the great Barons were very desirous to prevent the tyrannical exercise of the feudal authority towards themselves; many of them were much inclined to exercise it in that manner towards their vassals, and continued to do so after this Charter was granted. This," he continues, "both encouraged our Kings to violate all its limitations, and furnished them with a ready answer to all the complaints of their Barons." Lord Coke, however, views this clause in a very different aspect, since he says of it, "This is the chiefe felicity of a kingdome, when good lawes are reciprocally, of Prince and people—as is here undertaken—duly observed." Dr. Lingard in his *History of England*, Vol. II. Chap. xiv. page 257, seems to believe, that as the great body of freemen was composed of the subvassals of the immediate tenants of the crown, the clause was inserted for them, because they had assisted in procuring the Charter itself. On page 4 of the *History of South Britain*, by Samuel Henshall, M. A. 1798, 4to. it is

asserted that John himself caused this passage to be included in the Articles of the Great Charter; and it is observed to be the only clause which affects the whole body of the people.

Dr. Lingard, in the same Chapter of his work above cited, page 255, note 75, has also a singularly happy illustration of an obscure passage in the original Latin of the Great Charter of King John, Chapter xxxix, which has already been noticed on page 228. The words may literally be rendered, "Nor will we go upon him, nor will we send upon him," &c. Vide the original text, page 82 of the present volume. The real signification of these expressions may be learned from John himself; for by a Patent dated Windsor, May the 10th 1214, he engaged not to take, nor dispossess the Barons, nor their tenants; "*Nec super eos*," adds the instrument, "*per vim, vel per arma ibimus:*" that is to say, neither to pass on them by force, nor by arms, excepting by the law of the land, &c. "He had hitherto," says Dr. Lingard, "been in the habit of *going* with an armed force, or *sending* an armed force on the lands, and against the castles, of all whom he knew, or suspected to be his secret enemies, without observing any form of law." See also Brady's *Hist. of England*, Vol. II. page 501; Appendix, page 153, No. 124. This particular passage remained unaltered throughout all the future copies of the Great Charter.

The Second Great Charter of King Henry III., page 129, also contains another addition, providing that all the privileges of certain orders of men should be free from any damage arising from its ordinances. Lord Coke observes, that the English translation of this passage, "saving to the Archbishops," &c., is very improper; because there is in reality no saving to them, but only an act that their liberties should safely be enjoyed. No extension of rights, but, like the saving clause of an Act of Parliament, those privileges are preserved entire, which, by the words of the Act, might otherwise have been taken away. Thus, although the expression in the text "all the liberties and free customs which they formerly had," be very comprehensive, it yet preserves



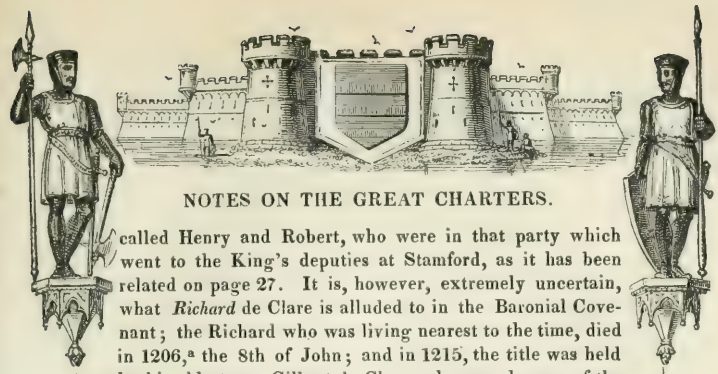
the peculiar characteristic of Magna Charta, noticed by Sir Edward Coke, that it is declaratory of the ancient law and liberty of England, not adding any new freedom, nor taking away any lawful duties, but only a repetition of former privileges, which time or oppression had brought into disuse.

CHAPTERS LXI, LXII, LXIII. Pages 59, 61, 93, 99.

On pages 29-30, of the preceding Essay, some account has been given of the election of the twenty-five securities, for the performance of the engagements of the Great Charter, mentioned in the first of the above Chapters; which opens with nearly the same declarations as those contained in the commencement of the instrument, vide pages 62, 160. The Charter of King John, and the Articles preceding it, are the only instruments which provided these securities; since in all the subsequent grants and confirmations, the three Chapters relating to the election and powers of the 25 Barons were entirely left out: Sir William Blackstone supposes,[a] that the omission was probably occasioned by a conviction that the provision was derogatory to the rights of the crown; and that on the succession of the young Henry III., he had as yet given them no reason to distrust him. The names of the 25 Barons elected in 1215, have already been given on pages 29 and 30; and are partly recorded in the Covenant succeeding Magna Charta, which resigned to them the custody of the City and Tower of London, until all the King's engagements were fulfilled, see page 102. Of these celebrated peers, however, it will be proper to add a few additional memorials, not only because many of the most eminent families of the present day are descended from them; but also because it is interesting to learn somewhat of those by whom the Great Charter was procured and supported.

Their principal and leader was ROBERT FITZ-WALTER, Baron of Dunmow, a memoir of whom will be found on another page. The name of RICHARD DE CLARE, Earl of Clare, appears in the Covenant already alluded to, see page 102, and Matthew Paris mentions two other Barons of the same title,

[a] Introduction xxxi.



called Henry and Robert, who were in that party which went to the King's deputies at Stamford, as it has been related on page 27. It is, however, extremely uncertain, what *Richard* de Clare is alluded to in the Baronial Covenant; the Richard who was living nearest to the time, died in 1206,[a] the 8th of John; and in 1215, the title was held by his eldest son, Gilbert de Clare, who was also one of the witnessing Barons. Milles, in his *Catalogue of Honour*, Lond. 1610, Folio, page 334, states that this Richard died "the 3rd of the Calends of December,"—the 30th—"in the yeare after Christ, 1218." That this account is probable, may be shewn from the following circumstances. All genealogical historians agree that he married Amicia, 2nd daughter and heir of the Earl of Gloucester, by whom he had Gilbert, his successor, and a daughter, Rose. Milles adds a previous daughter, Maud; and Banks observes from Hornby's *Remarks on the defects of Dugdale's Baronage*, Lond. 1738, 8vo. page 66, that the daughter should be named Joan, instead of Rose. Now, in the Patent Rolls for the 15th of John, 1213, Membrane 10, is a license "for R. Earl of Clare, concerning the custody of his daughter Matilda." Other references to this Baron, who was doubtless the same as the witness to the Great Charter, are to be found in the Patent Rolls for the 17th and 18th years of King John; Membranes 13 and 12. *Calend. Rotul. Patent.* pages 4, 6, 9. Dugdale asserts that he was buried at Clare, in Suffolk; but Milles says, he was interred in the middle of the Choir of the Priory of Tunbridge, in Kent, which he founded, and that Maud, his daughter, lay beside him. Dugdale's authority for the death and burial of this Baron, is contained in the Chronicle of Tewksbury, printed in the *Monasticon Anglicanum*, Vol. I. page 156, column i. line 25. The arms usually assigned to him are, Or, three Chevrons, Gules; but in a manuscript copy of Cook's Baronage, in the Harleian Collection, No. 4223, fol. 43, there is the addition of an escutcheon of pretence, Argent, charged with a Canton, Gules. The place whence the title of Clare took its origin,

[a] Dugdale's Baronage, i. 211. Banks' Extinct Peerage, iii. 181.

is stated by Heylin, to be an ancient town on the borders of Suffolk, where it joins to Essex, not far from the banks of the Stour, which divides the Counties; the Castle and Church being both in ruins. Upon the death of Richard de Clare, the title merged in the Earldom of Gloucester, and in 1362, it was changed into the Dukedom of Clarence, upon the marriage of Lionel Plantagenet, 2nd son of Edward III., with Elizabeth, daughter and co-heiress of William de Burgh, Earl of Ulster, son of John de Burgh, who married Elizabeth, one of the sisters of Gilbert de Clare, the last of that name Earl of Clare and Gloucester. After the murder of of George, Duke of Clarence, in 1478, the title lay dormant until Tuesday, May the 19th 1789, when it was revived in Prince William Henry, son of the late King George III. The Earldom of Clare, however, did not remain so long unenjoyed; for in 1624, the 22nd of James I., it was bestowed upon Sir John Holles, of Haughton in Nottinghamshire. His male issue failing in 1711, the title again became extinct; and was again revived in 1714, in favour of Thomas Pelham, who, in the year following, was created Marquis of Clare and Duke of Newcastle.

William de Fortibus, 7th Earl of Aumerle, or Albemarle, was the son and heir of Hawyse, daughter and coheiress of William le Gros, 3rd Earl of Aumerle, and her second husband, William de Fortibus, who possessed the title in her right. Although he was at first one of the 25 elect Barons, yet he afterwards quitted their party, and attached himself to the King, who granted him all the lands belonging to his sister Alice, then wife of William Marshall, the younger: whilst in 1218, he was made Governor of the Castles of Rockingham, in Northamptonshire; Sauvey, near Ouston Abbey, in Leicestershire; and Botham in Lincolnshire; "with strict command," adds Dugdale,[a] "to destroy all the houses, parks, and possessions, of those Barons who were in arms against the King. Although he generally adhered to Henry III., and was one of his chief commanders at the raising of the siege of Lincoln Castle, yet he was

[a] Baronage i. 64.

more than once in arms against him, his rapacious excursions being opposed by the King, and his submission was procured only by an Excommunication from Cardinal Pandulph. He appears to have possessed considerable property; since in 1221, he paid £40 as a Scutage for 20 Knights' fees, and £6 10*s.* for the Barony of Skipton in Craven. In 1230, he was one of the commanders of the royal troops in Normandy; and in 1241, having set out on a pilgrimage to Palestine, with several other eminent personages, he died on the Mediterranean Sea on Good Friday, March the 29th. The title of Aumerle, or Albemarle, is derived from a small town and territory in Upper Normandy, now commonly called Aumale, and was originally given about the year 1097. In 1293, it passed out of the family of De Fortibus, by the death of the Countess Aveline; and after being revived in the house of the Plantagenets, it became extinct in Richard Beauchamp, Earl of Warwick, in 1439. In 1660, the title of Duke of Albemarle was bestowed upon the celebrated Royalist, General Monk, with whose descendants it remained until 1688; when it again became extinct, and the Earldom of Albemarle was given in 1695-96 to Arnold Jost Van Keppel, in whose ancient family it still remains. The fac-simile of Magna Charta, engraven by John Pine, is surrounded by the armorial ensigns of the 25 elect Barons; but though he was for several years Blue-Mantle Pursuivant of Arms, and professed to give these decorations from the records of the Heralds' College, they are frequently erroneous. In the present instance, the Arms assigned to William de Fortibus, are Bendy of six Argent and Gules, a Chief Or; which formed the coat of Baldwin de Betune, his mother's third husband. Those belonging to the Baron himself, were Argent, a Chief Gules; but he sometimes is made to bear the Arms of his Earldom, Gules, a Cross Patonce, Vairée, which he derived from his mother. Such a coat was delineated for him in the North Aisle of Westminster Abbey, as one of the benefactors to it after it had been refounded by King Henry III. This shield, inscribed "Gulielmus de Fortibus, Comes Albemarlæ," with several others, is yet remaining; and an

engraving of it will be found in *The History and Antiquities of Westminster Abbey*, by J. P. Neale and E. W. Brayley: Lond. 1823, 4to. Vol. II. plate xxvii. page 27. These shields originally consisted of 20 in each Aisle, including the Arms of King Edward the Confessor; and they were placed two in every compartment, in the spandrils under the great windows. They were of different kinds, those in the ancient part of the Church being much larger than the others, and projecting from the wall, to which they appeared attached by bands or labels, fastened to human heads, with the exception of that of Edward the Confessor, which was affixed to the heads of birds, probably of martlets, in allusion to his Armorial Ensigns. The other shields were all flat, and had no labels: over each was the name of the bearer in Saxon characters which, in some places, may still be traced. Several of these escutcheons have been destroyed, and others are hidden by different monuments. Such is the account given in the very excellent work above mentioned, page 26. It may also be proper in this place, to notice an erroneous, but popular impression, that King John and the Barons all signed and sealed the Great Charter; whereas the fact is, that there was *only* the Great Seal, and not *any* signature. The mistake doubtless arose from a better acquaintance with modern customs than with ancient ones: and, perhaps, from the shields round Pine's fac-simile. It is however confidently adopted in a paper in the *Gentleman's Magazine* for October, 1821, Vol. xci. part. ii. page 293; the numerous errors of which are properly rectified, in another article contained in the Supplement to the same Volume, page 601. The custom of ratifying instruments without a signature, will be considered and illustrated hereafter.

Geoffrey de Mandeville, Earl of Gloucester, was the eldest son of Geoffrey Fitz Piers, first of those names, Earl of Essex and Justiciary of England. About 1213, the 15th year of King John, he succeeded his father and did homage, when he received the whole Barony of Earl William de Mandeville, or de Magna Villa. In the same year the King married him to Isabel, third daughter and co-

heiress of William Earl of Gloucester, from whom he had been divorced for want of issue, and for whom, Dugdale[a] asserts, that Geoffrey gave the King 20,000 marks, £13,333 6*s*. 8*d*. as a fine. In her right he became Earl of Gloucester, and in 1215 he was put in possession of all the liberties belonging to it. His wealth may be estimated by the above immense fine, and also by his payment of £196 13*s*. 4*d*. upon a collection of Scutage in Poicton, in 1214. As he adhered to the Barons' party, he was one of those excommunicated by the Pope. His death took place in 1216, in London, at a tournament with some of the French soldiers who attended Louis the Dauphin into England: the lance of one of them mortally wounded him, and he was buried in the Priory of the Holy Trinity, in the suburbs of the City, leaving no issue. The Arms of the family of Fitz Piers, are Quarterly Or and Gules, a Bordure Vairée; but those assigned to this Baron are Quarterly Or and Gules, an Escarbuncle Sable. As Geoffrey de Mandeville died without issue, the Earldom of Gloucester was next enjoyed by Almeric de Eureux; and the title, afterwards elevated to a Dukedom, passed into the families of Clare, Spencer, Audley, Plantagenet, and Stuart; and is now enjoyed by Prince William-Frederick, cousin to his Majesty, King George IV. The family of the present Marquess Townshend is supposed to have descended from that of Geoffrey de Mandeville, since Collins[b] states, that the founder of the former was Lodovic, a Norman, who came into England in the reign of King Henry I., and who first assumed the present name, which signifies in Saxon the holder or possessor of a town. He married Elizabeth, daughter and heiress of Sir Thomas de Havile, through whom he became possessed of the manor of Havile, otherwise called Hautville, Alta-villa, or High-town, in Rainham in Norfolk, whence the surname had been derived. The Arms of Mandeville, however, were brought into this family by the marriage of Sir Roger Townshend with Joan, daughter and heir of Sir Robert Lunsford, about the middle of the 15th century; which

[a] Baronage i. 706. [b] Peerage, Vol. vi. 36.

match also brought in the quarterings of Lunsford, Barrington, Belhouse, Marcy, &c. Morant, in his *History of Essex*, Vol. ii. page 123, Note B, gives the Arms of Mandeville, Argent, on a Chief indented Gules, three Martlets couped at the legs, Or. The name of Mandeville was derived from a territory in Normandy, belonging to Geoffrey de Mandeville, who came into England with William I.; it signifies a great town, and in ancient Charters is usually written Magna-villa.

Saher de Quincy was, according to Brooke, created Earl of Winchester by King John; and bore that title in 1207, the 8th year of his reign: but Dugdale states, that in 1210, his 10th year, he gave the King a courser, and "a good pied brache, having then the title of Earl of Winchester, but not before, for aught that I have seen." Matthew Paris relates, that in 1203, being Governor of the Castle of Ruil in Normandy, he observed that King John and the Nobles then at Caen, and about that country, "minded nothing but feasting, luxury, and lying in bed till dinner-time," which encouraged the King of France to enter his territory with an army, and, after capturing various places, upon the approach of some of his forces before the Castle of Ruil, it was surrendered to them without any resistance. He opposed the King's concession to the Pope's Legate, because Matthew Paris assigns that as the cause of John's great hatred to him and some others; but in 1214 he was employed, under Letters of Safe-Conduct, to pass between the Barons and the King, with terms of accommodation. He was also joined in commission with the Archbishop of Canterbury and others, to see that all those going to London, about the Feast of the Epiphany, immediately following the relaxation of the Papal Interdict; or to Northampton, to petition John for a redress of grievances, should have safe conduct until Easter. But though the King made him, in 1215, Governor of Mountsorell Castle, he was one of the Barons to whom the City and Tower of London were resigned; and elected of the 25 who were to govern the Kingdom, being excommunicated with the rest in the following year. He was also sent with Robert Fitz-Walter,

to invite the Dauphin of France to assume the crown of England; and even after the death of King John, he kept a strong garrison in Mountsorell Castle, on the behalf of Prince Louis. The fortress being besieged, and nearly captured, by the troops of Henry III., the Earl of Winchester and Louis gathered a large force in London; and having raised the siege, marched to Lincoln, then also surrounded by the King's army. In the battle which followed, the Barons were speedily defeated, and Saher de Quincy, with numerous others, made prisoners. In the following October, his immense forfeited estates were restored upon his submission; and in 1218, he went with the Earls of Chester, Arundel, &c. to Palestine: but, after having been present at the siege of Damietta, he died in 1219, on his farther journey towards Jerusalem. He married Margaret, youngest sister and co-heiress of Robert Fitz-Parnell, Earl of Leicester, by whom he acquired a very considerable inheritance: since in 1204, the 6th of John, he gave 1000 marks, £666 13*s.* 4*d.*, to have custody of his English lands on the death of the Earl, with certain exceptions. In 1205 he paid a fine of 5000 marks, £3333 6*s.* 8*d.* for the Honour of Grantmesnil; in 1206 he received certain other lands and rents in the County of Leicester; and in 1208 he gave the King three Coursers for livery of a part of the suburb of Leicester. The Arms of this Baron are commonly blazoned Argent, but sometimes Or, a Fesse Azure, and a File of eleven points Gules; but the last two colours are occasionally transposed. The File in chief also, does not appear to have had any certain number of points; since Pine makes them 12, on the escutcheon on the obverse of his seal there are 8, on the caparisons of the flanks of his horse there are 9, on those of the fore-part there are 5, and on the shield on the reverse of the seal there are 7. Saher de Quincy was succeeded in his Earldom by his son Roger, on whose death in 1264, his estates were divided; but the Earldom does not appear to have been revived until 1322, when it was conferred on Hugh Despencer. In 1473 it was held by Louis de Bruges, a native of Burgundy, who surrendered it in 1499; and in

1551 William Paulett was made first Marquess of Winchester, with whose descendants the title still remains. It is probable that the singular christian name of Saher, or Saier, borne by the ancient Earl of Winchester, is a corruption either from the Hebrew *Zair*, affliction; or the Saxon Segher, Sigher, or Seagar, a Conqueror. The latter yet exists in the names Sayer and Segar.

Henry de Bohun, Earl of Hereford, was in reality the first of his family who could properly be said to enjoy that title, since it was conferred upon him by King John, by a charter dated Porchester, April 28th 1199, the 1st year of his reign. He was the son of the 4th Humphrey de Bohun, whose family came into England with William I.; and Margaret, daughter of Milo, Earl of Hereford, who, at the division of her father's estates, received the office of Constable of England and the Lordship of Hereford, and from whom they descended to the present Baron. With the charter of the Earldom, Henry de Bohun also received a grant of 20 marks, £13 6*s*. 8*d*. yearly, from the County tax, called the Third Penny; and in 1204, the 6th of John, he paid the King 50 marks, or £38 6*s*. 8*d*. and a palfrey, to have the possession of 20 Knights' fees, belonging to the Honour of Huntendon, given by Henry II. to his mother. As he was one of the Barons in arms against King John, his lands were seized; but in 1215, he received them again, and was elected one of the 25 Securities of Magna Charta. Having been excommunicated by the Pope with many of the other Barons, he did not return to his allegiance on the decease of King John; but was one of the commanders in the army of Louis, the Dauphin, at the battle of Lincoln. Milles[a] observes of his death, that being a young man, he went with Saier de Quincy to Palestine, and died on his passage thither on June the 1st 1220, the 4th of Henry III.; but his body was removed to the family burial-place in the Chapter-House of Lanthony Abbey in Gloucestershire. His usual Armorial Ensigns are blazoned Azure, a Bend Argent, between two Cottises and six Lions rampant, Or; and he married Maud,

[a] Catalogue of Honour, page 1064.

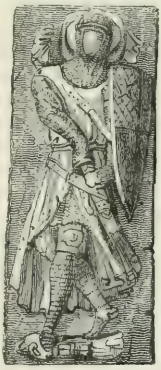
daughter of Geoffrey de Mandeville, Earl of Essex and Chief Justiciary of England, father of the Baron already mentioned. A son by this marriage, Humphrey de Bohun, who succeeded to the Earldom, was also for some time opposed to Henry III.; and was present at the famous reading of the Charters in Westminster Hall, in 1253. He was, however, taken prisoner at the battle of Evesham in 1265; received into the royal favour; and dying in 1274, was buried at Lanthony. The Earldom of Hereford remained in in the family of Bohun until the year 1371; and in 1398, Henry of Bolingbroke, afterwards King Henry IV., was created Duke of that County. Upon the extinction of his line, the Lordship passed into the houses of Stafford and Devereux; in which latter, Walter was made Viscount Hereford, on February the 2nd 1549, and with his descendants it yet remains.

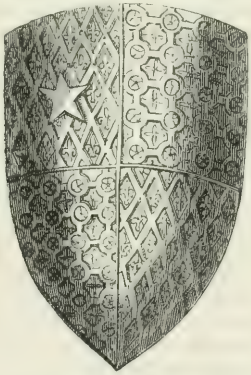
Roger Bigod, Earl of Norfolk, was the son of Hugh, Steward to the Kings Henry I. and II., who was descended from Roger Bigod, or Bigot, who in the time of William I. held several Manors in Norfolk; 6 Lordships in Essex; and and 117 in Suffolk. Camden, in his *Remains*, Lond. 1636, 4to. page 123, states the name to be Norman, signifying Superstitious, or a Bigot; a word of which the Etymology remains yet uncertain, though it is allowed to have been adopted from that language. Cotgrave and Roquefort consider its meaning to be the adjuration By God, derived either from the old French or the German;[a] and an instance of its contemporary use in that sense, has already been given on page 43 of the foregoing Essay. Camden adds, that the people of France used to call the Normans Bigods, because at every other word they would swear by God; and hence the family of Bigod coming from Normandy, was known by this national characteristic name. In 1189, the 1st of Richard I., a charter was issued, dated Westminster, Nov. 27th by which Roger Bigod was constituted Earl of Norfolk; the office of Steward was also confirmed to him, together with several Lordships, for all which he gave the

[a] Todd's Johnson's Dictionary.

King the sum of 1000 marks or £666 13*s.* 4*d.* In the same year he was one of Richard's Ambassadors to Philip, King of France, to procure aid for the recovery of the Holy Land; and about 1190, he became one of the sureties for William de Longchamp, Bishop of Ely, then Lord Chancellor, for the due performance of those Articles of Peace concluded between John, Earl of Moreton, and that Prelate, for the King, who was then in Palestine. When it was known that Richard was imprisoned in Germany, he appears to have gone thither with the Bishop; and after the King's return in 1194, this Baron attended his great Council at Nottingham, and was one of the four Earls who carried the silken canopy at his second Coronation. In 1200 he was sent by John as one of his messengers to summon William, King of Scotland, to do homage to him in his Parliament at Lincoln. In the 15th year of the same King, he attended him into Poictou; in 1215 he was one of the Baronial party which exacted from him the Great Charter; and was appointed one of the 25 Securities of that instrument, for which he was excommunicated by Pope Innocent III. He married Isabel, daughter of Hameline, Earl of Warren and Surrey, and his son Hugh succeeded him in his estates in 1220-21, the 5th of Henry III., in which year Roger Bigod is supposed to have died. The Armorial Ensigns, which Milles in his *Catalogue of Honour*, page 502, attributes to this Baron, are Gules, a Lion passant Or; but, perhaps, the more authentic coat is that given by Dr. Heylin, in his *Help to English History*, Lond. 1773, 8vo. page 302, namely, Or, a plain Cross Gules. A shield bearing this charge, with the superscription "Rogerus Bigod, Comes Norfolciæ," will be found in the North Aisle of Westminster Abbey. The Earldom of Norfolk passed from this family on the decease of Roger Bigod, third of that name, and 5th Earl, in 1307; after which it went into the houses of Brotherton and Mowbray, until both were united in that of Howard, in which it now remains. The present Duke of Norfolk is also a descendant from three of the witnessing Barons of Magna Charta, namely, Roger Bigod, Roger de Mowbray, and William de Albini, Earl of Arundel.

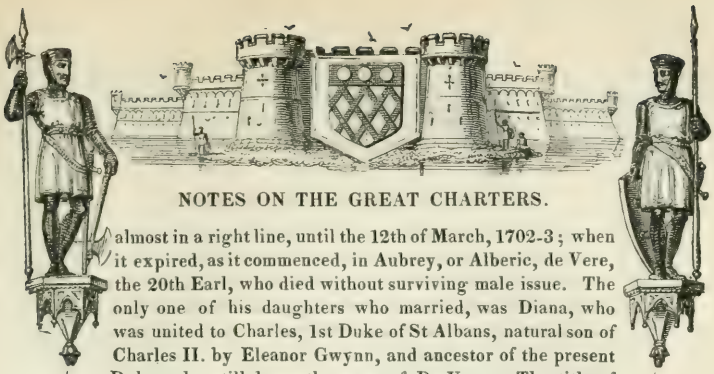
Robert de Vere, Earl of Oxford, was the brother and heir of the 4th Alberic who held that title, and whom he succeeded in 1214; paying 1000 marks to the King for delivery of his lands, &c. Alberic himself had been considered one of the evil counsellors of King John, but in 1215, Earl Robert was one of the principal Barons in arms against him; a member of the 25 who were to govern the kingdom; a party to that Covenant, which resigned to them the custody of the City and Tower of London; and one of those excommunicated by Pope Innocent. He appears, however, to have been received into the favour of Henry III.; since in 1220-21, the 4th and 5th of his reign, he was one of the King's Judges; in which latter year he died, and was buried in the Priory of Hatfield Broad-Oak in Essex. His monumental effigy, of which the following engraving is a representation,





is yet in good preservation, excepting the features, and is erected on the North of the Altar within the rails, though it was originally placed in a wall, on the South side of the Church. The figure is carved in free-stone, measuring about 6 feet, 11 inches, from the top of the pillow, to the bottom of the lion couchant beneath its feet; and it exhibits this Baron armed in a round helmet, with chain mail and a surcoat, in the act of drawing his sword, having his legs

crossed. His shield is on his left arm, suspended by a belt passing over the right shoulder. The head formerly rested on two cushions supported by angels, and two more angels kneeling before desks with books, were at the feet. Weever, in his *Funeral Monuments*, Lond. 1631, Folio, page 631, states, that round the effigy there was originally the following inscription written in Norman French. "Sire Robert de Veer, the first, and third Earl of Oxford, lieth here. God, if he please, have mercy on his soul! Whosoever shall pray for his soul shall have xl days of pardon." Even in Weever's time the above was almost worn out; and at present only a few letters are legible. He married Isabel, daughter of Hugh de Bolebec; and his property may be estimated by the circumstance, that in 1222 his widow paid to the King the fine of £2228 2*s*. 9½*d*. for the wardship of Hugh, her son and heir, beside a debt of £1780 11*s*. The Arms attributed to this Baron, are Quarterly Gules and Or, in the dexter Canton a Mullet Argent: but Gough has published an engraving of the effigy of Alberic de Vere, surnamed the Grim, first Earl of Oxford, who bears a shield Quarterly, in the 1st and 4th quarters a Mullet in chief, 2nd and 3rd frettée; and the Arms have also frequently been erroneously blazoned, Or, on a Quarter Azure, sémé-de-lis, a Star of 6 points of the first. This mistake is supposed to have arisen, from an imperfect examination of the shield borne by his sepulchral effigy where he lies interred; since the escutcheon is evidently quartered, though the rich diapered pattern which is carved all over it, is ornamented with fret-work, enclosing fleurs-de-lis in the 1st and 4th quarters, which have been engraven by Pine as Heraldical charges. The other two quarters are decorated with octagons and circles, having quatrefoils within them, as they are represented in the preceding engraving; as well as in the figures of Robert de Vere, introduced in the head-piece first inserted on page 18 of the present volume. See also C. A. Stothard's *Monumental Effigies:* Gough's *Sepulchral Monuments*, Vol. I. Part i. pl. viii. pages 32, 39: and *Memoirs of the late C. A. Stothard, F.S.A.* Lond. 1823, 8vo. pages 126-27. The Earldom of Oxford remained in the house of Vere, descending



almost in a right line, until the 12th of March, 1702-3; when it expired, as it commenced, in Aubrey, or Alberic, de Vere, the 20th Earl, who died without surviving male issue. The only one of his daughters who married, was Diana, who was united to Charles, 1st Duke of St Albans, natural son of Charles II. by Eleanor Gwynn, and ancestor of the present Duke, who still bears the name of De Vere. The title of Earl of the City of Oxford, was given to Sir Robert Harley, Secretary of State, &c. May 24th, 1711.

As several members of the powerful family of Marshall, were engaged in the public events of this period, it is usual to find the next Baron entitled *John* Marshall instead of *William;* and for him to be called the *Nephew*, instead of the eldest *Son*, of the famous William Marshall, Protector of the Kingdom to Henry III. WILLIAM MARSHALL, or MARESCHALL, commonly named THE YOUNGER, second EARL OF PEMBROKE, even in the life-time of his father,—a loyal, valiant, and virtuous, nobleman,—was one of the principal Barons who took up arms against King John; a member of the 25 Governors; a party to the Covenant for holding the City and Tower of London; and one of those excommunicated by the Pope. Upon the death of John, the Protector procured the Barons to consent to the Coronation of the young Henry, and wrote to all the Sheriffs and Governors of Castles throughout the realm, requiring their allegiance, and promising them large rewards. One of the Peers whom he reduced was his own Son, William Marshall, the Younger, who, in 1217, the first of Henry III., received a grant of the lands of Saher de Quincy, Earl of Winchester, David le Scot, Earl of Huntingdon, William de Mowbray, and Gilbert de Gant, then in arms against the King, with the fees of all such as held of them and adhered to the rebellious Barons. In 1223, whilst he was in Ireland, Llewellyn, Prince of Wales, captured two of his castles and put his soldiers to death; but on his return, he not only invaded that kingdom with fire and sword, but gained a complete victory over the Prince in battle, 9000 of his troops being slain or taken. The following year he was made Governor of the Castles of Caerdigan and Caermarthen; and in 1230,

Captain-General of all the King's forces in Bretagne, on his return whence he was sent with the Earls of Chester and Albemarle, and a considerable power against the Irish, to quell the invasions which they had made into England. His estates were, doubtless, very considerable, since Dugdale[a] shews that in 1223, he received Scutage from his tenants dwelling in 20 English Counties, beside Manors and Castles both in England and Wales: he also gave certain forest-grounds to the Monks of Tinterne, in Wales, and he founded the House of Preaching-Friars at Kilkenny in Ireland. He married Eleanor, sister of King Henry III., who survived him, and he died without issue in 1231, being buried near his father, in the New Temple Church, London, on the 18th of the Calends of May, April 14th. The Armorial bearings which are assigned by Pine to this Baron, in the coloured copies of his fac-simile of Magna Charta are, Parted per Pale Gules and Azure, a Lion rampant Ermine; which are the coat of the family of Norwich: but those really belonging to William Marshall, the Younger, who was Earl of Pembroke, and Lord Marshal,[b] were, Parted per pale Or and Vert, a Lion rampant Gules, armed and langued Azure; which bearing was not assumed until this family came to be Lords Marshals of England in the time of King Henry II. This latter title, however, was partly derived from the Manor of Hempsted-Marshal in Berkshire; which was anciently held by Grand Serjeantry of the Kings of England. The last Lord Marshal and Earl of Pembroke, was Anselm Marshal, 6th and last Earl of his surname, brother of the preceding, and youngest of the five sons of the famous William, who all remarkably succeeded him, without intervening issue. The Earldom of Pembroke then passed through the houses of Valence, Hastings, Plantagenet, and Herbert, in which last it finally settled in 1551, where it still remains. The title of Lord Marshal, was changed by Richard II. into that of Earl Marshal, by Let-

[a] Baronage, Vol I. 603.

[b] Rev. J. Dallaway's Inquiries into the Origin and Progress of Heraldry, Glouc. 1793, Quarto, page l.

ters Patent, dated June 20th 1397, granted to Thomas Mowbray, Earl of Nottingham and his heirs, in whose family it continued until 1475. The office was then held by various Noblemen, until 1603, after which, it was for a considerable time executed by Commission; but in 1622, King James I. granted it by Letters Patent, dated August 29th to Thomas Howard, Earl of Arundel and Surrey, for life. On the 19th of October, 1672, Charles II. granted it to Henry, Lord Howard, and his heirs, with power to execute it by deputy;[a] and in this house, which frequently enjoyed the appointment in ancient times, the dignity of Earl Marshal still remains an hereditary honour belonging to the Duke of Norfolk.

The present part of these memoirs, seems to be an appropriate place for giving some account of that *William Marshall, Earl of Pembroke*, who was Protector of the kingdom during the minority of Henry III.; some particulars of whose conduct have been given in the preceding Essay, page 37. He was the son of John, surnamed Marshall, and brother and heir to another John, both of whom held the office of King's Marshal; and the latter of whom he succeeded in the time of King Richard I. The first notice of William occurs in 1181-82, the 28th of Henry II., when Henry, son of that Sovereign, who had been in rebellion against his father, was lying on his death-bed, he delivered to him with great contrition, his cross, as to his best friend to carry to Jerusalem. When Richard I. came into England, upon the death of Henry II., this Baron obtained from him Isabel, daughter and heir of Richard Strongbow, Earl of Striguil, or Pembroke, in marriage, together with the Earldom itself; by which dignity he bore the golden sceptre and cross at the Coronation of Richard I. When that Prince was about to depart to Palestine, William Marshall was constituted one of the Governors of the kingdom; and he also became security to the King of France, that Richard would actually perform the Crusade at the following Easter. From 1189 to 1205, he was Sheriff of Lincolnshire, and of Sussex

[a] Dallaway, pages l.-liii.

during the whole of King Richard's reign, as well as in 1199, the 1st of John; being also Sheriff of Gloucestershire from that year until 1207. In the great dispute between Prince John and the Bishop of Ely, he adhered to the former; and upon his accession, he was sent before him from Normandy to keep the peace until his arrival. His property appears to have been very considerable both in England and in Normandy, as may be supposed from the fees he paid into the Exchequer. Thus, for the Manor of Boseham, he gave £42 yearly; for the lands of the Earl of Buckingham, he gave the King a fine of 1000 marks, £666 13*s.* 4*d.*; he held Goodrich Castle by the service of two Knights Fees of 40*s.* each; for the Honour of Striguil he was rated at sixty-five, amounting to £65 10*s.*; and for the grant of the Province of Leinster in Ireland, he answered for 100. He also gave 1000 marks more for delivery of the Castle of Haverford, and he was Governor of the fortresses of Caermarthen, Caerdigan and Goher; beside which, on his second marriage with Alice, daughter of Baldwin de Bethune, Earl of Albemarle, in 1203, he received several additional Lordships. In 1215 he was made a Commissioner by King John, then in Poictou, for making restitution of what had been taken from his subjects during the late Interdict; and the Civil War breaking out the same year, he and William, Earl of Warren, &c. were united to give safe-conduct to all going to the Court at Northampton. King John also employed him with the Archbishop of Canterbury, to go to the Barons at the Brackley meeting, and inquire into the nature of their demands. Some of the acts of this Baron after the death of King John, have been already referred to in the preceding Essay. He successfully opposed the Dauphin and his rebellious supporters: first besieging their strongest fortress of Mount-Sorrell, and then marching his forces to Nottingham, Newark, and Lincoln, where a battle took place in which he was victorious, many of the adverse party being slain and more made prisoners. His next care was to besiege London, and so effectually did he secure it from receiving any supplies, that a peace was at length concluded with the Barons about 1217, the beginning of the second

year of Henry III. He was Sheriff of Essex and Hertford, for some part of that and the following year, in which latter he died at an advanced age, at his Manor of Caversham, near Reading. His body, being carried to that Town, was received by the Abbey-Monks in full procession, and placed in the choir whilst Mass was sung; after which it was carried to Westminster, where service was again performed; and then, being taken on the morrow to the New Temple, it was solemnly interred there on Ascension Day, the 24th of May. His interesting effigy, measuring about 6 feet 9 inches, is yet extant in the Temple Church, London, representing, says Gough, a Knight in mail, with a surcoat, his helmet more completely rounded than the adjoining one, and the cushion, as in all the rest, laid straiter under his head. He is drawing his short dagger, or broken sword, with his right hand, and on his left arm is a short pointed heater shield carved with his Armorial Ensigns. Below his knees are bands, as if intended to separate the cuisses and greaves; his legs are crossed, he is armed with spurs, and under his feet is a lion couchant. Vide Stothard's *Monumental Effigies;* Gough's *Sepulchral Monuments*, Vol I. Part i. pl. v. fig. 2, pages 24 and 37: and a representation of the figure is also given in the ensuing engraving. Notwithstanding the great estates of this Earl, his last Will constituted Augustine's Bristol, leaving them his Executors, until his debts were paid. His acts of piety, however, according to the character of his time, appear to have been very numerous. For the health of the souls of King Henry II., of King Henry the younger, whom he terms "his Lord," of King Richard I., of Isabel his wife, his own, and all his Ancestors, he founded the Abbey of Kertmele, in Lancashire; "and conferred," says Dugdale, "upon the Canons of that House, all the liberties and privileges as



tongue could express or heart devise.[a]" To the Monks of Gloucester, he gave his Mill at Castle Goodrich, with the service belonging to it; and the service of the whole Town of Hunston: to the Monks of Pembroke, three other Mills, with several acres of land to the Chapel of Our Lady at Caversham, lying in its vicinity, for the health of his own soul and that of Isabel his wife: to the Canons of Bradenstoke in Wiltshire, the Church of Stone: to the Knights Templars, the Advowson of Spene Church, for the yearly pension of 5 marks, £3 6*s.* 8*d.*, the Church of Castellan-Emlyn, and 80 Acres of land in Echirmanhir: and to the Monks of Stanley in Wiltshire, a place in Ireland called St. Saviour's, to which certain of them removed. He also commenced the foundation of an Abbey of Cisterians at Downysken in Ireland, which was completed by his Widow, and Geoffrey Fitz-Robert, his Steward, according to his Will. He likewise established the Priory of Canons of St. Augustine at Kilkenny; that at Kilrush, which was a Cell to Kertmele in Lancashire: and that for Knights Hospitallers at Lough-Garnon in the County of Wexford. The Earl of Pembroke has received a noble character from all the historians who have mentioned him. He was termed through the world a most renowned and powerful Knight; Governor both of the realm and the King's person; a man of such worthiness, both in stoutness of stomach and martial knowledge, as England had few then which might be compared with him. "I am," said his Latin Epitaph,—which will be found given by Sir William Dugdale, on the authority of the famous historian of this period—"he who displayed himself Saturn in Ireland, the Sun in England, Mercury in Normandy, and Mars in France;" for he was always, adds Matthew Paris, the tamer of the mischievous Irish, the honour and glory of the English, the negotiator of Normandy, in which he effected many affairs, and a warlike and invincible soldier in France. Such was the eminent character of one of the very few loyal Barons of this period, and the firmest friend attached to the cause of King John.

[a] Baronage I. 602.

His nephew, *John Marshall*, surnamed *of Hengham*, is frequently, but very erroneously, supposed to have been one of the Securities for Magna Charta; and Sir William Blackstone[a] notices the confused manner in which Matthew Paris gives the names of some of the 25 elected Barons; and particularly his making William Marshall, junior, an Earl. John Marshall, however, on the contrary, received many gifts from the King, to whom he remained firm during the great contest between him and his Barons; and in 1216-17, the first year of Henry III. was Sheriff of Hampshire, and Governor of the Castle of the Devizes. He married Aliva, eldest daughter and co-heir of Hubert de Rie, Baron of Hengham, in the County of Norfolk; he died in 1234-35, the 19th of Henry III.; and his Armorial Ensigns were the ancient Coat of the family, which had been used before the Earldom of Pembroke was given to it, namely, Gules, a bend Lozengy, Or. The present Earl of Egmont, Baron Lovell and Holland, as head of the very noble house of Perceval, is descended from that of Marshall, through Robert, eldest son of Sir Richard de Perceval, who died about 1201: this Robert, as it is stated in Lodge's *Peerage of Ireland*, Edit. by M. Archdall, Vol. II. Dublin: 1789, Octavo, page 220, being nearly related to Richard Marshall, Earl of Pembroke, second son of the great William, and younger brother to that William who was really the Security to Magna Charta. Vide also Anderson's *Genealogical History of the House of Yvery*. Lond. 1742, 8vo. Vol. I. Book ii. chap. iv. in the Table succeeding page 196. After the Earldom of Pembroke had terminated in the family of Marshall, in 1247 the title was bestowed upon William de Valence, half-brother to Henry III., and it afterwards passed into the houses of Hastings, Plantagenet, Tudor, Boleyn, and Herbert, in which latter it still remains.

Gilbert de Clare, was the first Earl who held the titles both of Gloucester and Hertford; and he was the eldest son of Richard de Clare, probably the same person as the Baron mentioned on page 271, whose Armorial Ensigns

[a] Introd. xx. note u.

he also bare. He likewise seems to have been one of the Peers to whom the Welsh Lordships were granted; since in 1210-11, the 12th year of King John, he fortified the Castle of Buelth, in Wales, where he had lost many of his men but a short time previously. Matthew Paris states of him, that he was one of the principal of those Barons who were in arms against King John; one of the 25 elected to govern the kingdom, and to whom the City and Tower of London were committed, though his name does not appear in the Covenant on page 102; one of those excommunicated by Innocent III.; and one, who, adhering to Louis the Dauphin, was made prisoner at the Battle of Lincoln by the Earl of Pembroke, who sent him to Gloucester. After the conclusion of the Civil Wars, however, he married Isabel, one of the daughters, and at length co-heirs of that celebrated Baron. His property may be estimated by the circumstance that in the expedition into Wales, in 1222-23, the 7th of Henry III., he took scutage of his military tenants in 19 counties; and in 1226-27, the 11th of the same King, he gave a fine of 2000 marks, £1333 6*s.* 8*d.* for license to marry his eldest daughter to Baldwin de Rivers, having £200 yearly of lands in custody until his son-in-law should become of age. He died in 1229, the 14th of Henry III., at Penros in Brittany, on his return to England, and he was buried in the choir of Tewkesbury Abbey, to the Monks of which he had given his wood of Muthe, which lay by the side of the Severn.

It has already been noticed on page 16 of the preceding Essay, that the name of EUSTACE DE VESCI was intimately connected with the rise and progress of the Baronial insurrections of the time of King John. He was the son of William de Vesci, sometime Sheriff of Northumberland; and becoming of full age in 1190, the second year of Richard I., he gave 2300 marks, £1531 6*s.* 8*d.*, for delivery of his lands and leave to marry, in which year he also paid £12 3*s.* 4*d.* for the Scutage of Wales. At another Scutage made for Normandy in 1196-97, the 8th of Richard I., he rated himself at £24 6*s.* 8*d.*; which however he was acquitted of at that of Scotland, the 13th of John, 1211-12, as

well as of the payment for 12 knights-fees in the Scutage for Wales. In the early part of the reign of John, Eustace de Vesci appears to have been employed by the Sovereign, since in 1199 he was one of the Ambassadors sent to William, King of Scotland; but in 1212, his 14th year, he fled into that kingdom with Robert Fitz-walter, upon their being required to give securities for their faithful allegiance. The reason alleged for their conduct was, that John was then an excommunicated man; but though the English possessions of De Vesci were seized upon, and his Castle of Alnwick ordered to be destroyed, the whole of his lands were restored, upon the King's reconciliation to the Cardinal Pandulph. Henry Knighton, a Canon-Regular of Leicester Abbey, who lived in the time of Richard II., relates an improbable circumstance, particularly connected with this Baron, wherein he affirms that the incontinence of John was the real cause of the general insurrection of the Peerage against him, charging him with vitiating their wives, and then deriding them. He adds too, that Eustace de Vesci having married a very beautiful woman,—Margaret, daughter of William, King of Scotland—whom he kept far distant from the Court, John became enamoured of her, and carefully considered how he might possess her. Sitting one day at table with the Baron, King John observing a ring which he wore, took it from him, and said that he had a similar stone, which he would have set in gold of the same pattern; and having thus procured it, he immediately sent it in De Vesci's name to his wife, charging her by that token instantly to come to him, if she ever expected to see him alive. Believing this message, she speedily departed to the Court, but on her arrival there she met her husband, who happened to be riding out; and an explanation having taken place, a disguised courtezan was sent to the King as her substitute. Upon John's discovery of this deceit, he was so enraged, that De Vesci fled into the North, destroying some of the King's houses in his passage; whilst many of the Nobles who had experienced the same treatment going with him, they seized upon the King's castles, and at length were joined by the citizens of London. As this

Baron was so inveterate an enemy to King John, it is not surprising to find him a principal leader in the insurrection that followed: he was one of the Peers who met at Stamford and Brackley, one of the 25 elected to govern the kingdom, one of those to whom the City and Tower of London were committed, one of those excommunicated by the Pope, and one of those who invited Louis the Dauphin over from France. His own death was, however, intimately connected with this last rebellious and unpatriotic action. In attending his brother-in-law, Alexander, King of Scotland, to welcome the Dauphin, and to do homage to him for that kingdom, they passed by Barnard Castle in the Bishopric of Durham, then kept by Hugh de Baillol; and approaching too near to see if it might easily be captured, Eustace de Vesci was shot through the head with an arrow from the garrison, in 1216, the last year of the reign of King John. The Armorial Ensigns which Pine attributes to this Baron, are Quarterly Or, and Gules; those assigned by Banks are Gules, a Cross Argent; those quartered by the house of Clifford, as heirs general of that of Vesci, were changed into Or, a Cross Sable; but perhaps the most authentic bearing is Gules, a Cross Patonce, Argent. The male line of this family terminated in William, commonly called William de Vesci of Kildare, who was slain in the Battle of Bannocksburn, July 25th 1314, the illegitimate son of William, the grandson of Eustace. The female line ended in Margery, sole daughter and heir to Warine de Vesci, brother of Eustace, who married Gilbert Aton, of Aton in Pickering-Lithe, in the County of York. In 1315, the 9th of Edward II, Gilbert Aton, her great-grandson was found to be the right heir of William de Vesci, and to him the family estates in Yorkshire descended: the marriage of his great grand-daughter Margaret, with Thomas Bromfletc, brought the title of Vesci into the house of Clifford, by the union of Margaret her grand-daughter, with John, Lord Clifford, who was slain in the Battle of Towton, March 29th, 1461; from whom the present Lord de Clifford of the family of Southwell, is descended.

Of William de Hardell, the Lord Mayor of London, the information now extant is neither so particular nor yet so authentic, as that which has been brought forward concerning the other Barons; and it has even been conjectured that the name has been corrupted from that of Mauritius de Londonio, or Maurice de London. The Armorial Ensigns, which are commonly assigned to William de Hardell, are Vert, a Fesse flory and counterflory, Or; but Richard, or Ralph Hardell, a Draper, who was Mayor for several successive years in the time of Henry III., is stated to have borne Or, a Bend between two Cottises, Sable: but armorial bearings for a Civil Officer of so early a period, should be received with considerable caution. There do not appear to be any particulars extant, from which may be compiled an authentic account of William de Hardell, but he probably was one of the same family as that William, who was Clerk of the Wardrobe in 1245-46, the 30th of Henry III.; Vide Madox's *History of the Exchequer*, Chap. xxii., pages 621, Note a, 622, Note k, Chap. xxiii. page 674, Note w, 690, Note d. The same authority also mentions Ralph Hardell, the Lord Mayor of London, who was summoned to the King's council at Merton, concerning a disputed Taillage of the City: vide Chap. xvii. page 491; see also Chap. xxii. page 606, Chap. xxiii. page 632. A roll of the 55th of Henry III., 1270-71, likewise quoted by the same authority, Chap. xvii, page 516, Note b, mentions one Juliana Hardel; and in 1246-47, the 31st of Henry III., John Hardel was elected on the King's writ to be Keeper of the Die of the Mint of London. Vide Chap. xxii, page 604, Note f. An eminent family also of this name, held several estates in Essex, as the *Inquisitiones Post Mortem*, for the 13th of Edward I.—1284-85—No. 28, record the possessions of a Laurencius Hardell; and some account of the family after this period, will be found in Morant's *History of Essex*, Vol. i. pages 276, 288, 320.

William de Mowbray, whose name is sometimes corrupted into Mumbray, was the son of the first Nigel de Mowbray, and in 1194-95, 6th of Richard I., he paid £100 as the relief of an Earl's Barony, and £88 more in the same

year, when a Scutage was levied for the King's ransom, for the payment of which he was one of the securities. His name is not less remarkable for the active part which he took in the public events of his time, than it is for his dispute with William de Stuteville, concerning the Barony of Frontebœuf; for the equitable determination of which, he gave King John 1000 marks, £666 13*s.* 4*d.* It was then decided that Stuteville should resign the Barony, for which William de Mowbray gave him nine knights'-fees, and £12 of yearly rent; and the parties were reconciled at Lue, a house belonging to the Bishop of Lincoln, in the Province of Lindsey, on Septuagesima Sunday, January 21st. 1201, the 2nd year of King John. In 1215, he was made Governor of York Castle, and joined the Barons in arms for Magna Charta; for which he was one of the twenty-five Securities, being also a party to the Covenant for holding the City and Tower of London, and one of those whom Pope Innocent III. excommunicated by name. Matthew Paris, and after him, Sir William Dugdale, states that *Roger de Mowbray*, the third brother of this Baron, was also one of the twenty-five witnesses, inserting his name instead of that of Roger de Montbegon; but the latter authority observes,[a] that the series of Barons given in the preceding Essay, in which Roger de Mowbray does not appear, was taken from a manuscript of great authority, preserved in the Harleian Collection. Perhaps, however, he might have been elected to supply the place of Roger de Montbegon, who soon withdrew himself from the society of the Barons. William de Mowbray still continued in arms after the decease of King John, and was made prisoner at the battle of Lincoln, his lands being given to William Marshall, Junior; but the Lordship of Benestede in Surrey, being given to him by Hubert de Burgh, then Chief Justice, he soon recovered them, and attended Henry III. to the siege of Bitham Castle in Lincolnshire. About the 2nd year of Henry III., 1217-18, he succeeded his brother Roger, and received his lands upon paying the proper Relief; and died about the 8th of

[a] Introduction page xx, note u. See also Dugdale's Baronage, Vol. i. page 121.

the same reign, 1223-24, in the Isle of Axholme, and was buried in the Abbey of Newburgh, in Yorkshire. This Baron founded a Chapel at Threske, dedicated to St. Nicholas; and he married Agnes, daughter of the Earl of Arundel. The Armorial Ensigns of Roger de Mowbray are yet extant in the South Aisle of Westminster Abbey, as one of the benefactors to that edifice; and they were Gules, a Lion rampant Argent, but it is by no means certain that he bore the same arms as his brother William. The house of Mowbray has been extensively connected with nearly all the most eminent persons contemporary with its history in every period; but its most noble and actual descendants, are the members of the family of Howard, Duke of Norfolk, and Earl of Carlisle.

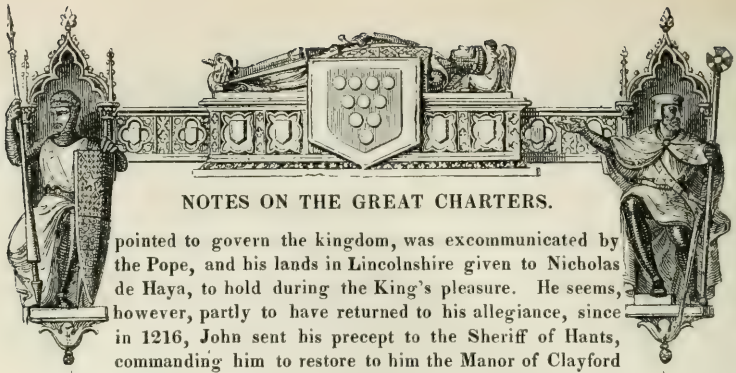
Geoffrey de Say, the son of Geoffrey de Say, had delivery of his estates about 1214-15, the 16th year of King John, for which he paid 4000 marks, or £2666 13*s.* 4*d.* He married Alice, one of the daughters and coheirs of John de Cayneto; but his extensive lands and possessions situate in 10 different Counties, were taken from him and given to Peter de Crohun, in consequence of his having joined the Baronial insurrection. They were, however, restored to him in the reign of Henry III., and in 1223-24 the 8th of that reign, he answered for 42 Knights' Fees in the Scutage of Montgomery. He died in Gascoigne, on the Monday preceding the Feast of St. Bartholomew, August 24th, in the 14th year of Henry III., 1230. The Armorial Ensigns of this Baron were Quarterly Or and Gules. Upon failure of male issue in the family of Say in 1248, the Lordship passed into the houses of Clinton and Fiennes; and in 1404-5, the 6th of Henry IV., William, Lord Clinton, had livery of his share of the lands of William de Say, and thereupon bore the titles of Lord Clinton and Say, which his posterity have ever since continued to enjoy. John Clinton, however, his son and heir, by a deed dated November 1st 1448, 27th Henry VI., granted and confirmed to his kinsman, Sir James Fiennes, Knight, then called Lord Say and Sele, and to his heirs and assigns for ever, the name, title, and arms, of Lord Say; he being de-

scended from Joan, youngest sister and coheir of William de Say, before mentioned. The present representatives of of Geoffrey de Say, are, his Grace the Duke of Newcastle, who bears the ancient names both of Fiennes and Clinton; and Lord Say and Sele, whose family name is likewise Fiennes.

It has already been remarked that Matthew Paris, in his list of the 25 Securities, elected for the preservation of Magna Charta, has inserted the name of Roger de Munbray, for that of ROGER DE MONTBEGON; or, as it is printed by Sir William Blackstone, from an ancient list in the Harleian Collection of Manuscripts, *Roger de Mumbezon.* In the Covenant, however, for giving up the City and Tower of London into the hands of the Barons, he is properly called *Roger de Monte Begonis;* vide page 102, in the preceding translation. This Baron was the successor of Adam de Montbegon, whose principal lands were situate in the County of Lincoln. Dugdale mentions, however, that the issue and heir of Adam de Montbegon, and Maud Fitz Swaine, was named Robert, though he afterwards proceeds to state that his successor was the present Baron Roger, whose Christian name is confirmed by its being inserted in the Covenant already referred to. During the imprisonment of Richard I. in Germany, Roger de Montbegon seems to have favoured Prince John's designs on the throne, since he was one of those who held out the Castle of Nottingham against the Bishop of Durham, Vicegerent of the realm; but when the King on his return advanced to besiege that fortress, he came out and submitted himself, and in 1197-98, the 9th of Richard I., paid 500 marks, £333 6*s* 8*d.*, to be reconciled to the King, and have restoration of his lands, which had been seized on for his trangression. In 1199-1200, the 1st of John, he paid a similar sum for liberty to marry Olivia, widow of Robert de St. John, but though several Lordships were granted, or confirmed to him by that Sovereign, even so late as 1215-16, the 17th year of his reign, he was one of the Barons who took arms against him, upon which his possessions were seized and given to Oliver de Albini, whilst he himself was excommunicated by

the Pope. He quitted the Barons, however, before the end of 1216, which, perhaps, accounts for another name appearing in the list of the Securities of Magna Charta furnished by Matthew Paris; and in 1217, he had letters of safe-conduct to attend William Marshall, Earl of Pembroke, to be reconciled to the young King Henry III. In 1219-20, the 4th year of the same Sovereign, his lands were again confirmed to him; and he also attended the King at the siege of Bedford Castle. He died in 1225-26, the 10th of Henry III., and was succeeded by his cousin Henry de Montbegon in the year following. His Armorial Ensigns were Paly of six, Argent and Gules, fourteen Roundles in Orle, counterchanged.

William de Huntingfield bore for his Armorial Ensigns, Or, on a Fesse Gules, three Plates; and being in 1203-4, the 5th of John, Constable of Devon Castle, he took an oath before the King that he would keep it faithfully and safely, and not resign it to any person excepting the Sovereign himself, or Hubert de Burgh, then Lord Chamberlain: at the same time delivering his son to the Earl of Arundel, and his daughter to the Earl Ferrers, as hostages for his good faith. In 1206-7, the 8th of the same reign, he procured the wardship and marriage of the heir and land of Osbert Fitz-Hervei, for which he paid a fine of 200 marks, £133 6*s.* 8*d.*, and two palfreys; and in the following year he had a grant of all the possessions of his brother, Roger de Huntingfield, which had been seized into the King's hands during the Interdict. In 1208-9, the 10th of John, he was one of the Itinerant Justices at Lincoln, and for a part of the next year he executed the office of Sheriff of Norfolk and Suffolk. He also subsequently held the same appointment until the end of 1213-14, the 15th of John, when he paid a fine of "six fair Norway Goshawks," to the King, for liberty to marry Alice, his daughter, then a widow, and to have assignment of her dowry. The last office which this Baron seems to have held, was that of Governor of Sauvey Castle, in Leicestershire; after which he joined the party of the Barons who were in arms against King John, and being elected one of the twenty-five ap-



pointed to govern the kingdom, was excommunicated by the Pope, and his lands in Lincolnshire given to Nicholas de Haya, to hold during the King's pleasure. He seems, however, partly to have returned to his allegiance, since in 1216, John sent his precept to the Sheriff of Hants, commanding him to restore to him the Manor of Clayford in that County. Under Henry III. his possessions in Norfolk, Suffolk, Cambridgeshire, &c. were, for some new act of rebellion, transferred by the King to John Marshall; but they were probably restored at the general amnesty. He died in 1256-57, the 41st of Henry III.

The name of *Robert de Boys* is erroneously inserted for that of Robert de Ros, in the Harleian Manuscript from which Sir William Blackstone printed his list of the 25 Witnessing Barons, which, however, is rectified by the text of Matthew Paris; and it may be remarked in addition, that the latter Baron was also a Witness to the Great and Forest Charters of 1224, vide ante, pages 38 and 144. Robert de Ros succeeded to his estates at the age of 13, in 1190-91, the 2nd of Richard I. and paid 1000 marks, £666 13*s.* 4*d.* for his livery. In 1196-97, the 8th of the same King, he was committed to the custody of Hugh de Chaumont, though for what reason is not known; but he was charged to keep him safe as his own life. This duty being transferred to William de Spiney, his escape from the Castle of Bonville was procured by bribes and promises; when the King made his guardian discharge his ransom of 1200 marks, £800, and afterwards executed him. In 1199-1200, the 1st year of King John, however, Robert de Ros received the Barony of his ancestor, Walter Espec, and was one of the Ambassadors sent to William, King of Scotland. In 1204-5, the 6th of the same Sovereign, a precept was sent to the Sheriffs of Yorkshire, Lincolnshire, Northumberland, Cumberland, and Westmoreland, to seize all the lands of this Baron; though they were restored within two years after with some additions. In the 14th of the same reign, 1212, he assumed a religious habit, and the custody of his possessions was transferred to Philip de Ulcote; but in the year following he seems to have been Sheriff of Cumber-

land, as he also was in the 16th of John, 1214-15. He was at first one of the few Barons who remained attached to King John during the Civil Wars; but in the 17th of his reign, being Governor of Carlisle, he refused to yield it on summons, when he was promised safe-conduct for himself, and all whom he should bring with him provided he would return to the King. This invitation, however, he disregarded, since he was one of the Barons who met in arms at Stamford, &c. in 1215; and was afterwards made one of the 25 Governors of the kingdom, the County of Northumberland being allotted to him. Matthew Paris also adds, that this Baron was one of the chief of those who engaged to compel the King to the observance of Magna Charta, if he should at any time offer to recede from it. He appears, however, to have returned to his allegiance on the accession of Henry III.—probably through the interference of the Earl of Pembroke,—and in 1217-18, the 6th of that reign, the Sheriff of Cumberland was directed to restore his Manors: in addition to which he was discharged of a Scutage for two Knight's fees in 1223-24,—8th Henry III;—and in 1225-26, his Manor of Bowelton in Northumberland, was gifted with a Market. Robert de Ros married Isabel, daughter of William, King of Scotland; he erected the Castles of Helmesley, or Hamlake in Yorkshire, and of Werke in Northumberland; and he confirmed some possessions to the Knights'-Templars, of which Order he was also a member. He died in the 11th of Henry III., 1226-27, and was buried in his proper habit in the Church of the New Temple at London, where his tomb is yet extant. Mr. Gough, who has inserted his effigy in his *Sepulchral Monuments*, Vol. I. Part i. Plate v, No. 3, pages 24 and 41, calls it "the most elegant of all the figures in the Temple Church, representing a comely young Knight in mail, and a flowing mantle with a kind of cowl; his hair neatly curled at the sides, his crown appears shaven. His hands are elevated in a praying posture, and on his left arm is a short pointed shield charged with three water-bougets. He has at his left side a long sword, and the armour of his legs, which are crossed, has a ridge or seam up the front continued over the knee, and

forming a kind of garter below the knee." At his feet is a lion; and the whole figure measures 6 feet 2 inches from the top of the head to the bottom of the animal. An engraving of the effigy of Robert de Ros, is also to be found in C. A. Stothard's *Monumental Effigies;* and it is exhibited in the annexed wood-cut.

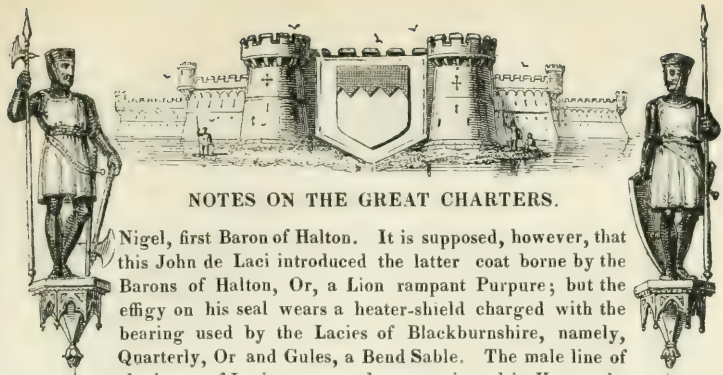


His Armorial Ensigns are the same as those sculptured upon his shield, namely, Gules, three Water-bougets, Argent, which are also delineated on the wall of the North Aisle of Westminster Abbey, though now very imperfect. The direct male line of the Barrons of Ros, terminated in the seventh descent from Robert, in Edmund Ros, or Roos, who died without issue in 1508-9, 24th of Henry VII.; his sisters Eleanor, Isabel, and Margaret, becoming his heirs. The two latter also died without issue; but the former being married to Sir Robert Manners, the Barony was raised from abeyance in that family, from which the Dukes of Rutland are lineally descended. The title afterwards passed into the houses of Cecil and Villiers, and subsequently, for want of male issue, again fell into abeyance. In the year 1803, however, Lady Charlotte Boyle, otherwise called from her marriage with the son of James, Duke of Leinster, Lady Henry Fitz-Gerald, being one of the co-heiresses, on whom the Barony devolved, presented a petition to the King, praying His Majesty to terminate the abeyance by declaring and confirming the right to the Barony of Ros in her favour. Her petition being referred to the Attorney-General, upon his report to a Committee of Privileges of the House of Lords, it was resolved May, 7th 1806, that the Barony was in abeyance between Sir Henry Hunloke, of Wingerworth-Hall, in the County of Derby, Baronet; George Capel-Coningsby, Earl of Essex; and Lady Henry Fitz-Gerald, in whose favour His Majesty terminated the abeyance on May 9th, 1806, when she became Baroness De Ros, bearing the ancient Arms already described.

NOTES ON THE GREAT CHARTERS.

It has sometimes been imagined that the name of JOHN DE LACI, *Constable of Chester*, and Baron of Halton, has been erroneously inserted in the list of these Baronial Securities, instead of that of *Ranulph Blundeville, Earl of Chester;* who, however, was one of the few Peers remaining loyal to Kings John and Henry III. during the whole of the rebellion. John de Laci was married to Alice, daughter of Gilbert de Aquila, and was the son of Roger, who died in 1211, the 13th of John, and on coming to his estates two years after, he engaged for the payment of the immense sum of 7000 marks, £4666 13*s.* 4*d.* as his livery, to be paid in four years; for which also he was to be discharged of his father's debts in the Exchequer. There does not appear to have been any charge of disloyalty upon Roger de Laci, but his son John obliged himself by oath, that in case he should ever fall from his allegiance and adhere to the King's enemies, all his possessions should revert to the crown. At the same time, too, he also engaged that he would not marry without the King's license; in security of which, the Castles of Dunnington and Pontefract, still remained in the hands of John, £40 per annum being allowed for their custody: the former of these, however, was soon after restored to him upon hostages. In the Baronial Insurrection, John de Laci appears to have been one of the earliest who took up arms, and in the division of the government of the realm, by the 25 elected Peers, Yorkshire and Nottinghamshire were appropriated to him. After his excommunication, however, this Baron appears partly to have returned to his allegiance, receiving letters of safe conduct both from John and Henry III.; and in the 2nd year of the latter Sovereign, 1217-18, he departed to the Holy Land with several other English Nobles. His good services at the Siege of Damietta, were rewarded by a second marriage with Margaret, daughter of Robert de Quincy, by Hawise his wife, 4th sister of Ranulph, Earl of Chester and Lincoln; through whom he received the latter title about the year 1232, with the sum of £20 per annum, by charter both from the Earl of Chester and the King himself. During the dispute between Henry III.

and Richard, Earl Marshall, when several of the Barons adhered to the latter, John de Laci remained attached to the King; partly, as it is supposed, in consideration of the grant of his Earldom, and partly for the sum of 500 marks, £333 6*s*. 8*d*. given him by Peter de Rupibus, Bishop of Winchester. In 1233, this Baron was constituted Governor of Blankminster Castle; and received the wardship and marriage of Roger, brother and heir of Nigel de Mowbray, for which he paid the sum of 1000 marks, £666 13*s*. 4*d*. In 1237, he was one of the Barons sent by Henry III. to that great Council of the English Prelates, which was summoned by Otto, the Pope's Legate, they being commissioned to prohibit the establishment of any thing contrary to the King's Crown and Dignity. He was also appointed, with the Earl Marshal, the Earl of Leicester, and a strong guard, to protect the Legate as he went to, and returned from, the Council. In the same year he had a grant of the Sheriffalty of Chester, and was made Governor of Chester and Beeston Castles. He was also promised the marriage of his eldest daughter to Richard, Earl of Clare, in the event of the King not marrying him to a daughter of the Earl of March; and for this grant he engaged to pay 5000 marks, £3333 6*s*. 8*d*., 2000 of which were remitted him. This agreement, however, having been made without the consent of the Baronage, excited considerable discontent, especially in the elder Earl of Clare. In 1240, John de Laci was again Sheriff of Cheshire, and he also had the return of the Royal Writs for part of the County of York; but he died on St. Mary Magdalen's day, July 22nd in the same year, and was buried in the Cistercian Abbey of Stanlaw in the County of Chester. Sir Peter Leycester's account of this Baron, with his seal, arms, and several deeds, will be found in *The History of the County Palatine and City of Chester*, by George Ormerod, LL. D. &c. Lond. 1819, Fol. Vol. I. pages 506, note a, 512-513. The Armorial Ensigns attributed to this Baron are, an official coat which he bore on his private seal, namely, Azure, three Garbs Or; being those of Blundeville, Earl of Chester, used by the Constables of the Earldom, the descendants of



Nigel, first Baron of Halton. It is supposed, however, that this John de Laci introduced the latter coat borne by the Barons of Halton, Or, a Lion rampant Purpure; but the effigy on his seal wears a heater-shield charged with the bearing used by the Lacies of Blackburnshire, namely, Quarterly, Or and Gules, a Bend Sable. The male line of the house of Laci appears to have terminated in Henry, the grandson of this Baron; whose only surviving issue was Alice, who married firstly, Thomas Plantagenet, Earl of Lancaster; secondly, Eubolo le Strange; and thirdly, Hugo de Frenes, with whom she was interred, her death taking place in 1348-49, the 22nd year of Edward III.

William de Albini, Albany, Albiniac, or D'Aubeney, for his name is to be found spelled with many variations, was the son of William de Todeni, Baron of Belvoir, who first adopted this surname, though his reason for doing so has never been ascertained. The younger William appears to have remained longer faithful to the King, as well as more moderate in his opposition to him, than most of the Barons who were concerned in the insurrection. When his father died in 1167-68, the 14th of Henry II., he was in ward to the King, and it does not appear when he succeeded to his estates; but in 1194, the 6th of Richard I., he was in the royal army which was then in Normandy. During part of the following year, he was made Sheriff of the Counties of Warwick and Leicester; and he also held the same offices for those of Rutland, Bedford, and Buckingham, at various times between 1196 and 1199, or from the 8th to the 10th year of Richard I. His property may be estimated by the circumstance of his paying 500 marks, £333 6*s*. 8*d*., in the latter year for the inheritance of Agatha Trusbut, whom he married; and a similar sum in the first year of King John. From that Sovereign he received, however, two very important grants; one in 1201-1202, the 3rd of his reign, being a special license to make a Park at Stoke, in Northamptonshire, within the precinct of the King's Forest of Rockingham, with liberty to hunt the fox and hare; and another charter dated at Alençon in Normandy, January 15th in the year following, giving him the

Lordship of Oskynton, or Ouston, in the County of Nottingham, with 100 shillings of Socage land lying near his park at Stoke. In 1201, the 3rd of John, when the Barons refused to attend him into Normandy, the King demanded that their castles should be given up to him as security for their allegiance, beginning with William de Albini, of whom he claimed Belvoir Castle, instead of which, however, he gave his son William as a hostage. He appears not to have joined the insurgent Barons, until he could no longer with safety either remain neuter or adhere to the King; but so late as January 1215, he was one of John's Commissioners appointed for the safe-conduct of such as were travelling to the Court at Northampton. And although he soon after became one of the 25 Securities for the Great Charter, it may almost be questioned whether he were not even then more on the part of the King than of the Barons; for when he was summoned by Robert Fitz-Walter to attend the tournament adjourned from Stamford to Hounslow-Heath, upon the Monday after the Feast of St. Peter and St. Paul, June 29th, he never attended, and it was not until after the other Barons had alarmed him by their messages and censures, that he fortified Belvoir Castle, and joined them at London. He was, however, received with considerable joy, and Rochester Castle having been delivered up to them by Stephen Langton, Archbishop of Canterbury, he was appointed Governor; when, though he found it so utterly destitute of provision, as almost to induce his forces to abandon it, he recruited and held it out until famine, weakness, and midnight watching, obliged them to surrender to the King. Matthew Paris relates of this Baron that during the siege, as John and some of his commanders were one day viewing the Castle, an excellent Archer asked him if he should shoot at the King with an arrow which he then held ready; and upon his answering, No, "Why," rejoined the bowman, "he would not spare us if he had the advantage:"—"God's will be done!" answered De Albini, "for He, and not the King, will dispose of us." The siege having lasted three months, and being attended with considerable loss, John ordered that all the nobles in the Castle

should be hanged; but the sentence being resolutely opposed by Savaricus de Maloleone, one of his own chief commanders, William de Albini and his son Odonel, with several other Barons, were committed to the custody of Peter de Mauley, and sent prisoners to Corfe and Nottingham Castles. Whilst he remained in the former of these fortresses, on the morrow of Christmas-day, 1216, the King marched from Nottingham to the Town of Langar, whence he sent a summons for Belvoir Castle to surrender; adding, that if any conditions were insisted on, "the lord of it should never eat more." Upon this, Nicholas de Albini, one of the Baron's sons and a Clerk in Orders, delivered the keys to John, upon provision that his father should be mercifully treated, and they remain in quiet with their horses and arms: the fortress was then committed to the custody of Geoffrey and Oliver de Buteville. After having been included in Pope Innocent's Excommunication of the insurgent Barons, William de Albini at length paid a fine of 6000 marks to the King, £4000, for his liberty, the sum being raised from his own lands by his wife, on their being delivered to her expressly for that purpose, with power of alienation and a particular precept to all his tenants. After John's death, though he quietly submitted himself to Henry III., he was forced to give his wife Agatha and Nicholas his son as hostages; but in 1217 he was one of the King's commanders at the Battle of Lincoln. Shortly after too, he received the lands, &c. of Thomas de Muleton, and the wardship and marriage of Hugh de Nevill. William de Albini was twice married, his first wife being Margery, daughter of Odenel de Umfranvile, a great Baron of Northumberland; and for the good of their souls and his own, he gave the Monks of Belvoir one sheaf of every kind of grain taken from five of his Lordships, and he founded and liberally endowed, the Hospital of Our Lady at Newstead in Lincolnshire. He died at Offington, on May 1st, the morrow preceding the Nones of May, 1236, the 20th of Henry III., his body being buried at Newstead, and his heart under the wall opposite the High-altar at Belvoir. William de Albini bore for his Armorial Ensigns, Gules, a

Lion rampant, Or, armed and langued Azure. The house of Albini as connected with this Baron, terminated in Henry de Albini, created Earl of Bridgewater, July 19th, 1538, 30th Henry VIII., who married Catherine, daughter of Thomas Howard, Duke of Norfolk, afterwards 5th Queen of Henry VIII., by whom he left no issue.

The Armorial Ensigns which Pine attributes to Richard de Percy, are erroneous, inasmuch as they are the Ancient Coat borne by his family—namely, Azure, five Fusils in fesse, Or,—instead of that more honourable device introduced by Josceline de Lovaine, Or, a Lion rampant, Azure. This change was originally caused by Agnes de Percy, who, with her sister Maud, was co-heiress to their four brothers who died without issue; and on being courted by Josceline de Lovaine, son of Godfrey, Duke of Brabant, and brother to Adeliza, Queen of Henry I.,—she consented to marry him, provided he and his posterity would assume either the surname or arms of Percy, relinquishing his own. He agreed to the former, retaining his own paternal ensign, which has ever since been marshalled in the Percy atchievement, as the first coat quarterly with that of Lucy, the more ancient bearing immediately following it. The eldest son of this marriage was Richard, the Baronial Witness to Magna Charta; who, after the death of Maud, Countess of Warwick, his mother's sister, without issue, entered, by the King's advice and his mother's licence into her part of the Percy inheritance. In 1204-1205, the 6th of John, he had delivery of all those lands in the Counties of York and Warwick belonging to the late Agnes and Maud de Percy; but in 1211-12, the 13th of the same King, his estate was considerably increased, because he was then acquitted of the Scutage on 15 Knight's-fees, being half the Honour belonging to William de Percy his ancestor. Beside being one of the 25 principal Barons connected with Magna Charta, Richard de Percy was included in the Excommunication of Innocent III.; and was appointed with Robert de Ros and Peter de Brus to subject Yorkshire to the allegiance of Louis, the Dauphin of France. He appears to have been reconciled to Henry III. in 1216-17, the first year of his

reign, when he had letters of safe-conduct to William Marshall; and in the year following he was in arms for the Sovereign. The time of his death is not recorded, but he seems not to have left any issue; and the line of this family terminated in Josceline de Percy, 11th Earl of Northumberland, who died without male issue 21st May, 1670. His only daughter and heiress, Elizabeth, married Charles Seymour, Duke of Somerset, whose son Algernon, was, Oct. 2nd. 1722, created Baron Warkworth and Earl of Northumberland, with remainder in default of male issue to his son-in-law, Sir Hugh Smithson, Bart., who succeeded on the Duke's death, February 2nd, 1750. On April 12th, 1741, this Earl and Elizabeth his Countess, were qualified by Act of Parliament to take the name of Percy, and bear and quarter the family Arms. The title was elevated into a Dukedom Oct. 22nd, 1766, and their grandson, Hugh Percy, the present Duke of Northumberland, is the third who has enjoyed the peerage.

William Malet, appears to be first mentioned as a minor, in 1194, the 6th of Richard I., in an expedition then made into Normandy; and in the ensuing year he paid an Earl's relief of £100 for delivery of his inheritance. His estates, including the principal one of Curry, or Curry-Mallet in Somersetshire, were held by the service of 20 Knight's-fees; and in 1203-1204, the 5th of John, he appears to have felt the value of the famous 40th Chapter of the Great Charter, vide pages 230, 231, by giving 100 shillings to the King for license to proceed at law against William de Evermue for the Lordship of Swinton. In part of 1210-11, the 12th of the same reign, and the three years succeeding, he was Sheriff of Somerset and Dorset; and in 1213-15, the 15th of John, he served the King with 20 soldiers in discharge of a debt then due by him. As he was one of the Barons in arms against the Sovereign, his lands in the Counties of Somerset, Dorset, Surrey, and Oxford, were committed to the care of Hugh de Vivion and his father-in-law, Thomas Bassett. He was also included in the Excommunication of Pope Innocent, though he became reconciled to the King before his death; but after his de-

cease, in 1224-25, the 9th of Henry III., Hugh de Vivion and Robert de Mucegros, the husbands of his daughters and heirs, were obliged to pay the fine of 2000 marks, £1333 6*s.* 8*d.* which had never till then been discharged. One thousand marks, or £666 13*s.* 4*d.* however, were remitted, being due to him for former service in King John's army in Poictou; namely, for ten Knights at two shillings per day, and twenty servants at twelvepence. The Armorial Ensigns attributed to this Baron, are commonly blazoned Azure, three Escallop Shells, Or; but this was the coat of Hamelyon de Deaudon, of Deaudon in Devonshire, whose heir, Mabel, married Sir Baldwin Malet, which brought the estate of St. Audries in Somersetshire, into the family; and the proper bearing for this Baron is Gules, a Lion rampant Or, debruised with a Bendlet, Ermine. The Escallops, however, are said to have been first adopted by a Crusader of the family; and in the Church of Shepton-Mallet in Somersetshire, in the windows of the North Aisle, are the mutilated effigies of two Knights-Templars in complete armour and cross-legged, said to represent some of this name, who went to the Holy Wars. That in the lowermost window has a ferocious countenance, his right arm crosses his body and reclines upon his shield, which is of an oblong form and placed over his left; and between his legs is his sword. The other effigy has also an oblong shield on his left arm, and the remains of a dog at his feet. Another Coat of Arms, supposed to have been borne by the Malets is, three Buckles, being that retained by the house of Greville in Normandy; and the family motto now used of "*Ma force d'en haut*," My strength is from on high, appears to have been assumed by Sir Baldwin Malet, Solicitor-General to Henry VIII., to whose power it probably contained an allusion. The surname of Malet is supposed to have been originally derived from some ancient member of the family, famous either for his valour, or for his dexterity in the use of the mall, or hammer of iron, carried before the invention of fire-arms. The Barony of Malet was divided between Hugh de Vivion and Sir Hugh Pointz, who had married Mabel and Heloise the daughters and heiresses of William de Malet; but two

other branches of the family, those of St. Audries and of Enmore in the County of Somerset, still flourished in wealth and importance. The latter estate became alienated by the marriage of Elizabeth Malet to the celebrated Earl of Rochester; and from the proprietors of the other is descended the present Sir Alexander Malet, the representative of this most ancient family. Several particulars of the three different lines of the name, will be found in *The History and Antiquities of the County of Somerset*, by the Rev. John Collinson, Bath. 1791, Quarto, Vol. I. pages 32, 90. III. 463, 496.

It is generally supposed from the Armorial Bearings used by JOHN FITZ-ROBERT, namely, Or, two Chevrons Gules, that he was nearly related to the families of Clare and Fitz-Walter, the ancient members of which latter, in common with others, frequently varied their surname, according to the Christian name of their immediate progenitor; Robert Fitz-Walter being the son of Walter Fitz-Robert. There is, however, a considerable degree of obscurity connected with this person,—who never appears to have received any summons to Parliament, his Barony being held by Tenure,—as well concerning his actual identity, as concerning the house from which he was descended. The name frequently occurs in the records of the Exchequer, as that of various persons called Guy, Philip, Edward, William, Nicholas, Richard, and Ranulph; and in the *Calendarium Rotulorum Chartarum et Inquisitionum ad quod Damnum*, Lond. 1803, Fol. page 236, column 2, appears a John Fitz-Robert, of Rothewell, in Lincolnshire, entered as *Felo* or criminal: 7th of Edward II., 1313-14. No. 6. The *Abbreviatio Placitorum*, Lond. 1811, Fol. also contain several references to some persons of the name of John Fitz-Robert, Thus, one is noticed as holding lands in Chadlington in Oxfordshire, in the 26th of Henry III., 1241-42, page 117, col. 2, Rot. 13. Another Fitz-Robert, of Estgate, is mentioned as having held by fee-farm, and having recovered possession of a messuage and eleven acres of land in Bernham, near Berested, in Norfolk: 24th Edward I., 1295-96, page 236, col. 2, Rot. 44. Another entry of a plea taken in 1300-1301, in which a John Fitz-Robert was concerned,

relates to the County of York : page 343, col. 1, Rot. 30. A fourth notice speaks of a John Fitz-Robert, of Grimessone, in Lincolnshire, who paid £5 damages for ill-treating the persons collecting toll of his goods for sale in Swineshead market: 1302, 30th Edward I., page 246, col. 1, Rot. 15. Whether all these persons, however, were of the same family, or connected with that of the Witness to Magna Charta, cannot now be ascertained.

William de Lanvallei is supposed to have been the son of a Baron of those names whom he succeeded about 1210-11, the 12th year of King John; though his estates do not appear to have been of any very considerable extent, since his widow paid only 200 marks, £133 6*s*. 8*d*. for their delivery. In 1212-13, the 14th year of the same Sovereign, Alan Basset of Wycombe gave the King a similar sum and an excellent palfrey, that his daughter might marry William de Lanvallei, who also was to be discharged of his relief upon doing his homage. In 1215-16, the 17th of John, this Baron was Governor of Colchester Castle, but about the same time he appears to have joined the insurgent Nobles, who constituted him one of the 25 elected to govern the kingdom, and he was likewise a party to that Covenant which yielded to them the City and Tower of London. He appears to have been reconciled to Henry III. at the great Treaty in 1217; but there are no farther particulars extant concerning him, excepting that his daughter and heiress, Hawise, was married to John de Burgh, son of Hubert, Earl of Kent, and Justiciary of England. The issue of this marriage was John de Burgh, from whom descended two daughters, who were co-heiresses to their father; one of whom, Hawisa, married Robert de Greslei in 1279-80, the 8th of Edward I., the ancestor of the present Sir Roger Gresley, of Drakelow, in the County of Derby, Baronet. The Armorial Ensigns which are frequently, but erroneously, delineated for William de Lanvallei, are those of the house of Delaval, namely, Ermine, 2 Bars Vert; instead of Gules, a Lion passant Or. This mistake has probably arisen from the circumstance that Gilbert de la Val was one of the Barons in arms against King John in the 17th year of his reign 1216-17; from

whom, in the nineteenth degree, descended John Hussey Delaval, created Baron Delaval of Delaval in the County of Northumberland, August 21st, 1786. He bore the ancient Armorial Ensigns of the family; and, to commemorate the actions of his ancestor, his supporters were two Barons in complete armour, but without their helmets, all proper, the dexter one holding in his right hand a sealed deed inscribed Magna Charta, and in his left a drawn sword resting on the shield: and the sinister holding a spear with a banner Gules, fringed and charged with a Lion passant guardant, Or, being the Arms of William I., cousin to one of the ancient Barons of this name, who also carried one of his head banners when he invaded England. The title of Delaval became extinct in May, 1808, by the death of the first Lord without male issue.

Of the family of Hugh Bigod, or Bigot, some account has already been given on pages 279, 280, of the present work; since he was the eldest son of Roger, Earl of Norfolk, whose Arms, Or, a Cross Gules, he bore, though probably, differenced with a label during the life of his father, but the coat of the family of Norwich, namely, Parted per Pale, Gules and Azure, a Lion rampant, Ermine, is also frequently and erroneously assigned to him. Hugh Bigod succeeded to his father's estates in 1220-21, the 5th year of Henry III. There are but few particulars of this Baron's life extant, for he enjoyed the title of Earl of Norfolk but a very few years, since he died in 1224-25, the 9th of Henry III., leaving three sons, Roger, Hugh, and Ralph, by Maud, daughter of William Marshall, Earl of Pembroke.

Richard de Montfichet, the last of the Baronial Witnesses, was the son of a Baron of the same name, who was Forester of Essex, and Keeper of the King's houses at Havering and elsewhere in the Forest; and who died in 1203-1204, the 5th of John. At this time the younger Richard was under age, and his wardship was committed to Roger de Lacy, Constable of Chester, who gave 1000 marks, £666 13*s.* 4*d.* for it; but in 1210-11, the 12th of John, Milisent, the mother of Richard de Montfichet, paid 1100 marks, £733 6*s.* 8*d.* to have the wardship herself. As

this Baron did not become of age until the latter end of King John's reign, his first act appears to have been joining the party then in arms for Magna Charta; and he was appointed one of the twenty-five who were to govern the realm. He also went over into France with Robert Fitz-Walter in 1216 to collect more aid, and continued one of the most turbulent of the Barons, until he was taken prisoner in the Battle of Lincoln, June 18th, 1217. Even after he was released, he attended the Tournament at Blithe in 1222-23, 7th Henry III., contrary to the King's prohibition, for which his lands were seized; but in the 21st of the same Sovereign, 1236-37, he was constituted Justice of the King's Forests for nineteen of the Counties of England. In 1241-42 he was made Sheriff of Essex and Governor of Hertford Castle; and in 1257-58, he was summoned to attend the King at Chester on the Monday preceding the Feast of John the Baptist, to oppose the hostilities of the Welsh. As Richard de Montfichet died without issue, his lands, being chiefly the Barony of Stanstead in Essex, were divided between his three sisters: Margaret, married to Hugh de Bolebec; Aveline, to William de Fortibus, Earl of Albemarle; and Phillippa, to Hugh de Playz. His Armorial Ensigns were Gules, three Chevrons, Or, which had been assumed by his great-grandfather William, on his marriage with Margaret, daughter of Gilbert Fitz-Richard, Earl of Clare, they being those of that family having the tinctures reversed.

Such then, are a few memorials of the Barons of England, who were principally engaged in procuring and establishing the Magna Charta of King John. It would not be less interesting, nor less proper to this work, now to proceed in giving a similar account of all the other Peers engaged in the same cause, as well as of the few who remained faithful to the Sovereign during the whole rebellion. From the specimens, however, which have been already given, it is evident that this would occupy too great a portion of the volume; to which it may be added, that a certain degree of likeness prevails throughout all such Baronial memoirs, and that full information may be procured from the works

from which the foregoing have been compiled. These are, in addition to those cited on former pages, *The Baronage of England*, by Sir William Dugdale, Lond. 1675-76, folio. 2 vols.; *A Help to English History*, by Peter Heylyn, D.D, *Continued and Improved*, by Paul Wright, B.D. F.S.A. Lond. 1773, octavo; *The Dormant and Extinct Baronage of England*, by T.C. Banks, Esq. Lond. 1807-1809, quarto, 3 vols.; *A Synopsis of the Peerage of England, exhibiting, under Alphabetical Arrangement, the date of Creation, Descent, and present state of every Title of Peerage which has existed in this country since the Conquest*, by Nicholas Harris Nicolas, Esq. F.S.A. Lond. 1825, 12mo. 2 vols.; *A Genealogical History of divers Families of the Ancient Peerage of England*, by T. C. Banks, Esq. Lond. 1826, quarto; *Debrett's Peerage of the United Kingdom of Great Britain and Ireland*, Lond. 1826, 12mo. 2 vols.; *Debrett's Baronetage of England*, Lond. 1826, 12mo. 2 vols. To these, however, should be added a work of continual and excellent reference, entitled *Notitia Historica: containing Tables, Calendars, and Miscellaneous Information for the use of Historians, Antiquaries, and the Legal Profession*, by Nicholas Harris Nicolas, Esq. Lond. 1824, octavo.

But before entirely concluding these Baronial memoranda, having already given some account of King John's firm supporter William Marshall, Earl of Pembroke, his next most faithful friend and relative, WILLIAM LONGESPEE, EARL OF SALISBURY, ought certainly not to be omitted, since his name is repeatedly mentioned in the course of this volume. He was the natural son of King Henry II. by Rosamond Clifford, usually called Fair Rosamond; and he derived his surname of Longespée from a massive sword which he usually wore. From 1199 to 1207 he executed the office of Sheriff of Wiltshire; in 1208 he was constituted Warden of the Welsh Marshes; and in 1212-13, the 14th of John, he became Sheriff of Cambridge and Huntingdon, for one half of the year. His fidelity to his Sovereign, appears very early to have procured him from the rebellious party the reputation of one of his evil counsellors; though in a single instance he appears to have forgotten his fealty. In 1213-14 he

was again made Sheriff of Wiltshire, and continued so until 1225-26, the 10th year of Henry III.; having also a grant of the manor of Eye, in Suffolk. It has already been related, that this nobleman was one of John's securities to the other Barons; and his name likewise appears in the same character in the commencement of the Great Charter. Nor were his fidelity and allegiance less evinced in his Sovereign's conflicts with his foreign enemies; for the King of France having, in 1214, invaded the possessions of Ferdinand, Earl of Flanders, he constituted the Earl of Salisbury one of his principal commanders, both of the land forces, which he sent forward immediately, and afterwards of a powerful fleet, with which William de Longespée entered the harbour of Damm, and cutting out the French vessels brought them to England. In a third expedition, for the retaking of the English possessions in France, this Baron was one of the three leaders of John's soldiers; but in an attempt to surprise King Philip whilst he was at mass, on Sunday, July 20th, the feast of St. Margaret, he was himself made prisoner, together with the whole of his party. He was, however, soon exchanged for Robert, son of the Earl of Dreux, a near kinsman of the King of France, on the particular recommendation of King John himself. After his liberation he was made Sheriff of the Counties of Cambridge and Huntingdon, in 1214-15, the 16th of John, and in the year following he received the Manor of Andover, in the County of Southampton. As the Baronial wars had at this time grown to their greatest height; King John raised two bodies of troops, one of which he marched to subdue the Northern parts of the kingdom, whilst the other was left under the charge of several noble and worthy commanders, one of whom was the Earl of Salisbury. Their first care was to prevent the carriage of provisions to London, where the rebel forces were then chiefly placed; and next to march into the adjoining Counties of Essex, Hertford, Middlesex, Cambridge, and Huntingdon, to cut off farther supplies, and strengthen the Royal party. The cause can hardly be imagined, which made this valiant nobleman, uniting with

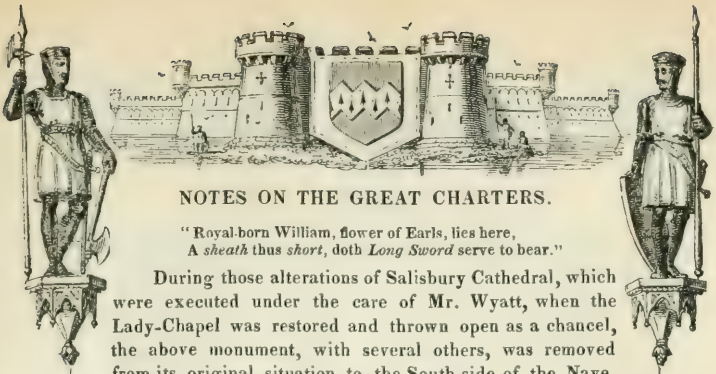
nearly all the English Baronage, go over to Louis, the Dauphin of France; but immediately upon the accession of Henry III., he again returned to his allegiance, and did homage to his Royal kinsman, of whom he became the stedfast friend. Walter of Coventry, however, observes, that at this period many great families became divided in their interests, the fathers and elder branches adhering to the King, whilst the sons and junior members took part with the Barons. A remarkable instance of this has already been given in the biographical notice of William Marshall, the younger, Earl of Pembroke. Other Barons too, out of respect to their relations, or else in the hope of advantage often changed their parties, in a manner similar to the Peers, &c. during the Civil Wars of Charles I.; whilst many who had been opposed to the King during the whole of the reign of John, were entirely subdued, or else returned to their allegiance on the accession of Henry III. William Longespée, then, having at that time quitted the Baronial party, in conjunction with William Marshall, Earl of Pembroke, raised the Siege of Lincoln, for which he was made Sheriff of the County and Governor of the Castle; as well as of the County of Somerset, and Castle of Sherburne. In 1219 he went with the Earl of Chester on an unsuccessful expedition to the Holy Land, where he fought at the Siege of Damietta; and in 1223-24, the 8th of Henry III., he became Sheriff of Southampton and Governor of Porchester and Winchester Castles. The rank of William de Longespée, is marked by two aids given to him by his military tenants, although their amount be not specified. One of these was a Scutage for attending Henry III. into Wales in 1222-23, the 7th of his reign; and the other was levied by special mandate in 1224-25, the 9th of Henry III., when he was sent with Richard, Earl of Cornwall into Gascoigne, for besieging the Towns and Castles of those who had refused homage and fealty to the Sovereign. There are several romantic incidents to be found in the memoirs of this Earl, and one of these occurred during his return from this latter expedition. In crossing the sea, relates Sir William Dugdale after Matthew Paris, there arose so great a tempest,

that despairing of life, he threw all his property out of the vessel; but when all hopes were past, they discerned a large waxen taper, brightly burning upon the ship's prow, having a beautiful female standing beside it, defending it from the storm. Unconscious of what the holy vision might allude to, all in the barque were entirely convinced of their safety; but the Earl attributed it to the benignity of the Blessed Virgin, since on the day when he received the girdle of Knighthood, he carried a taper to her altar, to be lighted every mass to her honour. Whilst their preservation was thus miraculously effected, it was confidently reported to the King that all were drowned; upon the slight faith of which, Hubert de Burgh, the King's Justiciary, with great indecency solicited Henry III. that Raymond, his kinsman, might marry Ela, the rich and widowed Countess of Salisbury, under pretence of an hereditary right to the Earldom. The King, being then about 18 years old, gave his consent, and Raymond, in splendid arms, began his suit; but after he had entreated her with many courtly expressions, she indignantly said that she had received letters from her husband, and messengers who assured her of his life and safety. To this, being a woman of an exceedingly lofty spirit, she added, that had the Earl been really dead, yet would she never have accepted his suit, since his birth was too inferior; and that he must look elsewhere to match himself, since to her he came but in vain. Soon after, the Earl of Salisbury having with great difficulty landed in Cornwall, came to King Henry at Marlborough, where he was received with considerable joy. He now made a formal complaint against Hubert de Burgh for his treachery, adding, that unless the King would do him speedy right thereon, he would vindicate himself even to the disturbance of the public peace. The Justiciary, however, who was present, acknowledged his crime, and pacified him with costly gifts; but in partaking of a reconciliation banquet at Hubert's table, it is supposed that William de Longespée was poisoned, as he soon after removed dangerously sick to his Castle at Salisbury. Here he presently sent for the Bishop of his Diocess to confess himself,

receive the Sacrament, and make his Will, which, as it has already been shewn on pages 208-210, it was usual to do by the advice of religious men. Whether, however, it were from the deleterious effects of the poison, some concealed crime festering upon his conscience, or the remembrance of his occasional disloyalty to his Sovereign is not recorded; but when the Prelate entered his apartment bearing the Host, he leaped from his bed, having a halter about his neck, and falling prostrate on the floor, he cried out whilst he loudly lamented and wept, "that he was a traitor to Almighty God," and could not be induced to rise until he had received the Sacrament. After persevering in great penitence for some days, he at length died upon the Nones of March—the 7th—in the 10th year of Henry III., 1226. A circumstance which occurred at his funeral, and is related by Matthew of Westminster, is in perfect unison with his vision on the sea already mentioned: since it is stated that whilst the Earl's body was being carried to the New Church of Salisbury, about a mile distant from his Castle, the tapers which were borne with the cross were not extinguished, notwithstanding the violent storm of rain and wind which then took place. He was interred on the North side of the Lady Chapel in Salisbury Cathedral, in a wooden tomb richly covered with fine linen, prepared with a ground of stucco and painted, diapered, and gilt, an engraving of which with his effigy, will be found in *A Genealogical History of the Kings and Queens of England*, by Francis Sandford and Samuel Stebbing, Lond. 1707, Fol. Book ii. Chap. xi. page 115; in Gough's *Sepulchral Memorials*, Vol. I. Part i. page 41, plate xiii. Fig. 1; in C. A. Stothard's *Monumental Effigies of Great Britain;* in W. Dodsworth's *Historical Account of the See and Cathedral of Salisbury*, Salisbury, 1814, Quarto, pages, 192, 201, plate 2; and in *The History and Antiquities of the Cathedral Church of Salisbury*, by John Britton, F.S.A. Lond. 1814, quarto, plate 3, No. 2, page 92. The sepulchral effigy of William de Longespée, lying on this tomb, is sculptured in grey marble, and is represented in the following engraving.



It measures 6 feet 9 inches in length, and exhibits him in his coat of mail gilded, his face turned to the right, and covered with a round helmet somewhat flattened on the top, the lower part of it covering his mouth, like those of the Knights in the Temple Church. His feet are pointed and armed with prick-spurs; and his body is covered with a surcoat, which, in Sandford's time, had six lions painted upon it, though they were much concealed by its numerous foldings; but Gough states that when he saw the monument the whole was painted blue: they are still to be traced, however, on a close examination, as well as some few remains of gilding and painting, both on the armour and the tomb. On the left arm the figure wears a heater-shield, embossed with those Armorial Ensigns, which he adopted from his father-in-law, William Fitz-Patrick, Earl of Salisbury, Azure, six Lions rampant, three, two, and one, Or; which were also delineated in the South Aisle of Westminster Abbey, and are still remaining nearly perfect, with the title of "Gulielmus de Longaspata, Comes Sarisburiæ," inscribed above them. From beneath the shield extends the lower part of that long sword from whence this Baron derived his name. The altar tomb beneath this effigy, was originally ornamented in front with six demi-quarterfoil arches in relief, the ground of which was diapered in two patterns; but Gough shews that these decorations were considerably defaced and painted blue like the figure. Between the spandrils of these arches, were once inserted small shields charged alternately with the Arms of England and Fitz-Patrick; and the slab on which the figure is laid, is ornamented with a border of trefoil foliage. There does not appear to have been any inscription or epitaph, but two punning Latin verses are given by Matthew Paris, which have been thus translated by John Speed:



"Royal-born William, flower of Earls, lies here,
A *sheath* thus *short*, doth *Long Sword* serve to bear."

During those alterations of Salisbury Cathedral, which were executed under the care of Mr. Wyatt, when the Lady-Chapel was restored and thrown open as a chancel, the above monument, with several others, was removed from its original situation to the South side of the Nave, where it joins the Great-Transept. At that time his skeleton was found entire enclosed within the tomb. The charitable donations of this nobleman, and the bequests contained in his will, give some idea of his estates and actual wealth. Thus, to the Canons of Bradenstoke, he gave pasturage for 100 sheep in his lordship of Cettrey; with one yard land—that is to say from 20 to 30 acres—in Ambresbury, and another Cettrey: to the Carthusian Monks he gave his manor of Uethorp, whence, not being a place proper for their settlement, they were translated by his widow to Henton, where she erected a Church in 1227: for the building of a monastery called God's House, belonging to the same Order, he left all the profits of the wardship of Richard de Camvil, until his own heir came of age: and to the same house he bequeathed a cup of gold, set with emeralds and rubies; a pix of gold; two goblets of silver, one of which was gilt; forty-two shillings; a chesible and cope of red silk; a tunicle and Dalmatique of Yellow Sendal; an Alb, Amice, and Stole; a Favon and Towel; all his Reliques; 1000 sheep, 300 muttons, 48 oxen, and 15 bulls. The whole of this princely bequest was ratified by King Henry III. in the 38th year of his reign, 1253-54.

The memoirs of the famous Countess of this Baron are scarcely less than his own connected with the public events of the time; and the first features of them have something remarkably romantic in their character. She was the daughter and heir of William Fitz-Patrick, Earl of Salisbury, and Alianmore de Vitrei, at whose decease she appears to have been in Normandy; since it is reported that one William Talbot, an eminent English soldier, fearing that her great wealth might expose her to danger, assumed the habit of a pilgrim, and after wandering about for two

months, at length arrived at the Court where she resided. He then changed his habit for that of a harper or minstrel, and being, as the narrative relates, practised in mirth and jesting, was well entertained there, became acquainted with her, and brought her over into England, presenting her to Richard I. who received her very courteously, and gave her in marriage to his natural brother as it has been already related. The issue of this union was four sons and five daughters; but though the title of Earl of Salisbury was claimed by the eldest son, William, it is observed by Dugdale, that he never enjoyed it. After the decease of William de Longespée, his widow assumed so much of his sex, as to execute the office of Sheriff of Wiltshire for parts of the years 1226-28, 1230-31, the 11th, 12th, and 15th years of Henry III.; when also she gave a fine of 200 marks, £133 6*s.* 8*d.* to have the same custody of the Castle and County for the remainder of her life. Her devotion, according to the character of her time, appears to have been not less eminent than her spirit. She made a better provision for the Carthusians, as it has been already related; and having lived for seven years in widowhood, she entertained a desire of founding some monastery for the health of her own soul, and those of her ancestors and husband. It having, then, been revealed to her that she should perform this in a certain place called Snails-mead, near Lacock in Wiltshire, she commenced the foundation in the morning of the 16th of the Calends of May,—16th April, 1233, the 17th of Henry III;—and in 1238, the 22nd of the same reign, when probably the building was completed, she entered it as a nun, though in 1240 she was elected Abbess. Whilst she held this dignity, her eldest son was slain in the Holy War at Cairo, in the year 1250; and the night before his death she saw in a vision the heavens open, and her son armed at all points, but distinguished by his shield, joyfully received by the angels. Upon her asking "Who is this?" she was answered "Do you not know your son William and his armour?" to which when she had replied in the affirmative, was added, "It is he whom thou his mother now beholdest." Having carefully observed the time, when the

actual tidings of his death arrived about half a year after, she lifted up her hands, and with a cheerful countenance said, "I thine handmaid, give thanks to thee, Oh Lord! that out of my sinful flesh, thou hast caused such a champion to be born." She continued to be Abbess of Lacock for eighteen years, but five years before her death, she resigned her government from infirmity; and she deceased about the year 1263, in the 75th of her age, being interred in the choir of her own Abbey. Her seals, which bear her effigy, represent her as a tall woman, with flowing hair, drest in a robe, chapeau, and collar, holding a bird upon her left hand. The middle tower of Lacock Abbey is at present used as a muniment-room, and in it is preserved an original copy of the Second Great Charter of King Henry III. granted in 1224, described upon a future page, which Sir William Blackstone supposes to have been deposited there by the Countess Ela, for the benefit of the military tenants of Wiltshire.[a] An interesting account of Lacock Monastery, with a view, will be found in *The Beauties of Wiltshire*, by John Britton, F.S.A. vol. iii. London, 1825, octavo. pp. 235-242.

The Barons, then, whose memoirs have occupied the foregoing pages, were, as it was provided by the Great Charter of King John, chapter lxi. pages 92-95, to be elected out of the great body of the Peerage, as the guardians of those privileges which it granted to the nation; though it does not appear that the whole of the Nobility was at any one time quite unanimous. But even when they had brought over to their cause nearly the whole of the Peers, they would not of themselves remedy any grievance; though they had in vain represented it to the King and his Chief Justiciary. The process contained in their Charter, however, was yet more crafty and unlawful; vide pages 94, 95, and it stated that if their complaints were not redressed within 40 days after they had petitioned the King or his Justiciary, they should be at liberty—or rather, it should become their positive duty—to levy war upon the Sovereign, aided by

[a] Introd. page xlvii. A copy of this Charter is given on page 118 of the present volume.

the whole nation; "to distress and harass" him to the utmost of their power; to seize upon his castles, lands, and possessions, and to stop only at the act of confining the persons, or shedding the blood, of himself, his Queen, and his family. This clause amounted to a permission to commit that species of High-Treason, called levying war upon the King, under pretence of reforming laws, religion, removing of evil councillors, &c.; but it was omitted in all the succeeding Charters, for the reason already given on page 270, of its being derogatory to the rights of the crown, and, perhaps, from its positive illegality. The narrative of the Barons' wars and the Sovereign's retaliation, belongs to the broad stream of English history; though it may be observed in conclusion of this passage, that in all demands which the Securities made for redress, the Justiciary was to be considered as the second person in the kingdom, as it has been stated in the account of his office on pages 198, 239. It is next ordained that the Barons were to be supported in their depredations on the King, by the whole power of England; that such as would might voluntarily swear allegiance to them, whilst such as were unwilling, were to be compelled by a royal command, of which the greatest contempt had been already evinced. Beside the notice of this command in Magna Charta, when the King had left Runnemede for Odiham and Winchester, it was renewed in the more formal style of the following Writ, as it is entered on the Patent Rolls.

"The King to the Sheriff of Warwick and the Twelve Knights elected in the same County, for enquiring into and abolishing the evil customs of Sheriffs and their Officers, Forests and Foresters, Warrens and Warreners, Rivers and their Keepers, Greeting. We command you, that instantly and without delay, you seize into our hands the lands, tenements, and goods, of all those of the County of Warwick, who swear contrary to the twenty-five Barons, according to the form contained in our Charter of Liberties, whether they have done so by themselves or by an appointed Attorney. And if they will not forthwith swear after the completion of fifteen days, let their lands, tenements, and goods, be seized into our hands: and of all the seized goods let sale be made, and the money produced by the same accounted for to the subsidy for safe-conduct to the Holy Land. And for the lands and tenements, retain them in our possession until they shall have sworn. And this provision is made by the judgment of the Lord Archbishop of Canterbury, and the Barons of our Kingdom; and in testi-

mony thereof Witness myself, at Winchester, the 27th day of June, in the 17th Year of our Reign. (The same mandate is sent to all the Sheriffs of England.")

Before this Writ was issued, another had been published throughout England, commanding the election of those Twelve Knights, to whom it is secondarily addressed, and whose duties of examining into, and abolishing evil customs, are mentioned in King John's Magna Charta, chapter xlviii, pages 84, 85, and in the subsequent Covenant, page 103. These Writs have been already noticed on page 32 of the preceding Essay; their form is preserved on record in the Tower, and as they are dated June 19th—four days after the Charter,—Sir William Blackstone supposes that the several copies of that instrument, which were to be distributed in every County and Bishopric, were not completed until that time, when the peace between the King and his Barons was concluded, and John received their homage. The Writs for electing the Twelve Knights, was in the following form:

"The King to the Sheriff, Foresters, Warreners, Keepers of Rivers, and all his Bailiffs in the same County, Greeting. Know ye, that a secure peace is henceforth to be renewed, by the grace of God, between us, and the Barons, and the free-men of our kingdom, as ye shall be informed by our Charter, which we at this time have caused to be made, and which we also command to be read in public throughout the whole of your Bailiwick, and steadfastly to be observed: willing and straitly instructing, that you, the Sheriff, according to the form of the aforesaid Charter, do cause all of your Bailiwick to swear unto the twenty-five Barons, of whom mention is made in the Charter aforesaid; at their command, or at that of the greater part of them, before him or them who have been appointed for Attornies by their letters patent; and at the day and place on which they have fixed it to be done. We also will and command you, that Twelve Knights of your County shall be elected by the same County, which shall be held after the receipt of these Letters, who shall be sworn for enquiry into the evil customs of their districts, as well of the Sheriffs as of their Ministers; of Forests, Foresters, Warrens and Warreners, Rivers and their Keepers, and to abolish them as it is contained in this Charter. You, therefore, and all such as have respect for us, for our honour, and for the peace of our kingdom, shall inviolably observe, and cause to be observed by all men, everything which is contained in that Charter; nor shall any defect of your's, nor any transgression of your's upon the peace of our kingdom---which God avert!---again disturb the matters it concerns. And you, the Sheriff, shall cause our peace to be proclaimed throughout your Bailiwick, and direct it to be steadfastly observed. And in testimony of this matter we send

to you. Witness myself, at Runnemede, the 19th day of June, in the Seventeenth Year of our reign."

After the appointment of the Twenty-five Barons, the Charter goes on to provide, that no means shall be employed to render it void; but it may be observed, that in the original Articles, Chapter 49, page 61, it is expressly declared, that the King shall not procure any revocation of it from the Pope, who is not so particularly specified in the corresponding division of the perfect instrument, see page 99. Even before the meeting of Runnemede, however, John had sent a letter to the Pontiff, acquainting him with his Barons' proceedings; and another messenger was probably dispatched immediately after with a copy of the Charter, which procured a Bull, dated August 24th, vacating the whole instrument, as being unjust and extorted by compulsion; alike prohibiting the King from observing and the Barons from demanding of it.

CHAPTER LXII. Pages 61, 98, 99.

After the extended and violent hostilities between the King and his Peers, the Great Charter properly contains one section, as an act of oblivion and reconciliation; which, it may be observed, has so much of a retrospective view, as to commence at the preceding Easter, April 29th, 1215. The peace was actually concluded on Friday, June 19th, and it was announced to the King's party by the following letter, which is entered on the Patent Rolls; and which, in referring to the Fines and *Tenseriæ*,—a military tax or contribution—may be thought to have some allusion to the taking away of unlawful amerciaments, provided by Chapter lv of King John's Charter: see pages 56, 89, 261.

"The King to Stephen Harengod, &c. Know ye, that a firm peace was, by the grace of God, made between us and our Barons, on the Friday next after the Feast of the Holy Trinity, at Runnemede near to Staines, and that there we took homage of the same. Wherefore we steadfastly command and instruct you, as ye have respect unto us and our honour and the peace of our kingdom, that you shall no farther disturb nor do any evil to our Barons, nor to others, for the future; nor permit any occasion to be taken from the former discord between us and them. We also command you that of the Fines and *Tenseriæ* taken by us on account of that discord, if any remain to be paid after the aforesaid Friday, nothing shall be taken. And the bodies of the prisoners, and hostages, and such as are detained on account of those Wars, or Fines, or *Tenseriæ*, aforesaid, shall be liberated

without delay. All the aforesaid shall be done, as ye have respect to our person. And in testimony of this matter we send to you: Witness, myself, at Runnemede, the 18th day of June, in the Seventeenth Year of our Reign."[a]

A second branch of this Chapter mentions certain Letters Testimonial, which were to be framed by the King's command, by the Archbishops, Legate, &c. concerning the Liberties and security granted by the Great Charter. A copy of these Letters, merely reciting the whole Charter, in the form of an Inspeximus, is preserved in that very ancient and authentic record, called the Red Book of the Exchequer at Westminster, with which Sir William Blackstone collated the Cottonian copy of Magna Charta, adding the various readings beneath it.

CHAPTER LXIII. Pages 98, 99.

This section consists only of a repetition of the two principal features of Magna Charta, freedom to the Church, and civil liberty to the subject; similar to the clauses contained in Chapter i; and it may be observed that the close of this instrument contains no mention of signing, contrary to the popular conception, as it has been stated on page 274. It should be remarked, however, that in the time of King John, the seal was considered as the most important attestation to a deed, as may be seen in the Charters of Henry III. on pages 116, 130, 332, which were sealed with the impresses of Cardinal Gualo, the Legate, and William Marshall, the Protector; the Great Seal of John having been lost with all his treasure, in the Washes of Lincoln, and his son had no new Seal, until two years afterwards. Some notices of Runnemede, the place where this Charter was concluded, will be found in a future note; and it now remains only to add a few illustrations of the concluding passages of the other Charters of Liberties.

The first instance of a different termination is to be found in Chapter xlii of the First Great Charter of Henry III., vide pages 115, 116. It takes notice of almost all the

[a] Blackst. Introd. xviii. The date of this instrument is erroneous, probably from the clerk having written xviii. for xxiii; since the Letter on the Patent Roll immediately before it is witnessed on the 23rd of June.

omissions from the grant of King John,—excepting the clauses relating to Intestacy and the making of Judges,—and then states that the Prelates and Barons had agreed to respite the other particulars for farther deliberation. This respite, says Sir William Blackstone, may be considered as a kind of engagement on the part of the young King, that these Articles should be reviewed, and a new Charter granted, whenever public tranquillity should be restored.

The termination of the Second Great Charter of Henry III. chapter xlvii, pages 129, 130, provides for the destruction of those unlawful, or Adulterine, Castles, which had been erected during the Baronial Wars. It was anciently unlawful to erect a Castle, without license from the King, vide page 203; since there were several high powers and officers connected with them, derived from the King, of which some particulars have been given on pages 205, 211; and they were restrained also from the dangers which would arise if every person might erect a fortress at his own pleasure. In times of civil commotions, however, when depredation or defence were almost the only sources of action, bulwarks appear to have been erected in England without license, and to have been supported without sovereign, or constitutional authority; and at the Treaty of Wallingford, in 1146, after the domestic wars between King Stephen and the Empress Matilda, one of the Articles was, that "the Adulterine Castles which have been constructed in the King's time by any person whomsoever, shall be destroyed." It can scarcely be doubted but that the oppressions of Castellans and their officers, would make the dismantling of these unlawful forts a very important clause in the first Charter of Liberties after the Civil Wars were ended; and accordingly in the following Writ for the publication of that Charter, this part of it is particularly mentioned:—

"The King to the Sheriff of York, Greeting. We send to you the Charters of Liberties, granted to all of our Kingdom, as well of the Forests as of others, commanding you concerning them that you cause them publicly to be read in your full County-Court of Barons, Knights, and all the free-tenants of the same County, who shall swear to us faithfully for the same. And you shall diligently attend to every particular throughout the whole of those Charters, and cause it to be performed and observed: and chiefly that which is inserted

near the end of the Great Charter, concerning Adulterine Castles, which have been erected or re-edified since the beginning of the war, to be on all occasions destroyed and laid aside as it is contained in the same Charter; because that provision was made and inserted in the Charter, by the advice of the Lord Legate and our faithful subjects, for the great benefit of us and tranquillity of our Kingdom. Witness, the Earl at Sturminster, on the 22nd day of February. (The like Letters were sent to every Sheriff of England.)"

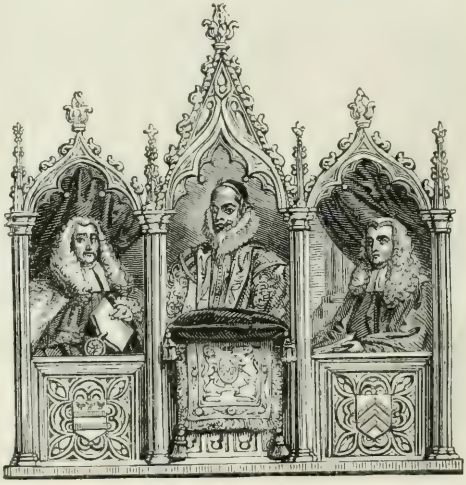
This order was probably carried into full effect, since there is no farther provision concerning it in the Third Charter of Henry III., which contains the standard text printed in the Statutes. The variations in the concluding division of Chapter xxxvii of this instrument are an acknowledgement of a Fifteenth, paid by the whole kingdom for re-granting the Great and Forest Charters, a new engagement for the King and his Peers, to protect and observe them, and the number of witnesses names, concluding the whole: vide pages 142-144. This Fifteenth has already been noticed on page 38 of the preceding Essay, and at the period when it was granted, it was an uncertain sum rated upon the value of every person's possessions given by Parliament, as in this instance also, were the Charters themselves. In 1332, however, the 6th of Edward III, on Membrane 26 of the Second Patent Roll for that year, is an entry of the "Tallages made of the Cities, Boroughs, and Lordships, throughout England," which were recorded in the Exchequer as fixing this levy at a fifteenth part of the value of every town, being a certain rate, though even that can be assessed by Parliament only. When the Fifteenth has been thus granted, the inhabitants of a town divide the payment of it for themselves; and if two towns be joined together and disproportionately rated, a Writ may be sued from the Exchequer for equalising the subsidy.

The number of Witnesses with which this Instrument concludes, is expressive of the King's Council by which it was granted; whence Erasmus supposes that Sovereigns first adopted the plural style, to give their Councillors part of the merit of their actions. In the commencement of the reign of Richard II. the expression of "by these Witnesses," was altered for that of "in testimony of which thing we have caused these Letters to be made Patent,"—or

open,—"Witness myself;" but even anciently those instruments which retained the former words were called Charters, whilst the others were denominated Letters Patents.

The Inspeximus Charter of Edward I. has a concluding clause, providing that if any of the engagements contained in it should not hitherto have been kept, they shall still be considered as inviolable. As the whole instrument, however, was only a rehearsal of the Charter for Confirmation, it is secured by the King's Letters Patent, and is witnessed only by Prince Edward: vide page 158.

Such, then, is a brief and imperfect commentary on the series of the Great Charters of Liberties, intended only to convey a general idea of their nature and powers, to those whom Law-books are either repulsive or not familiar. Enough of illustration, however, has been given to shew the great extent of the subject, and the ancient value of the Charters; and the works whence this has been derived, will supply the enquiring reader with more elaborate judicial discourses, and more ample historical information.



THE

FIRST FOREST CHARTER

OF

King Henry the Third;

Granted November 6th, A.D. 1217,

IN THE SECOND YEAR OF HIS REIGN.

Vide the preceding Essay and Notes, pages 4-8, 37, 38, 45-47, 237-239.

TRANSLATED FROM THE ORIGINAL, PRESERVED IN THE ARCHIVES OF DURHAM CATHEDRAL.



HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy Acquitaine, and Earl of Anjou, to all his Archbishops, Bishops, Abbots, Priors, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, and all his Bailiffs and faithful subjects;—Greeting. Know ye, that We, for the honour of God, and for the health of our own soul and the souls of our ancestors and successors, to the exaltation of the

Holy Church, and the reformation of our kingdom, have granted, and by this present Charter have confirmed for us and our heirs for ever, by the counsel of our venerable father the Lord Gualo, T. T. Cardinal-Priest of St. Martin, and Legate of the Apostolical See, the Lord Walter, Archbishop of York, William, Bishop of London, and other Bishops of England, and of William Marshall, Earl of Pembroke, Governor of us and of our kingdom, and of others our faithful Earls and Barons of England, the underwritten liberties to hold in our kingdom of England for ever.

(I.) Inprimis, All the Forests made by our grandfather King Henry, shall be viewed by good and lawful men, and if he turned any other than his own proper woods into Forests, to the damage of him whose wood it was, it shall forthwith be disforested. And if he afforested his own proper woods, they shall remain so, saving the common of pasturage, and of other things in the same Forest, to those who were formerly accustomed to have them. (II.) Men who dwell without the Forest, from henceforth shall not come before our Justiciaries of the Forest, by a common summons, unless they are impleaded there, or are pledges for any others who were attached for something concerning the Forest. (III.) Also all woods which were afforested by King Richard our uncle, or by King John our father, until our own first Coronation, shall forthwith be disforested, unless they shall

be our Demesne woods. (IV.) The Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, and free tenants who have their woods in Forests, shall have their woods the same as they held them at the time of the first Coronation of our grandfather King Henry, so as they shall be discharged for ever of all Purprestures, Wastes, and Assarts, made in their woods after that time, until the beginning of the second year of our Coronation. And those who for the time to come shall without our license make Wastes, Purprestures, or Assarts within them, shall answer for such Wastes or Assarts. (V.) Our Regarders shall go through the Forests to make a view, such as was accustomed to be made in the time of the first Coronation of our grandfather King Henry, and not otherwise. (VI.) The inquisition or view for Lawing of Dogs living within the Forest, for the future shall be when the view ought to be made, namely, the third year in three years; and then it shall be done by the view and testimony of lawful men, and not otherwise. And he whose dogs shall be found then unlawed, shall give three shillings for mercy, and for the future no one's ox shall be taken for lawing. Such lawing also shall be done by the Assize commonly used; which is, that three claws shall be cut off without the ball of the fore-foot. Nor shall dogs be lawed from henceforth, excepting in places where it hath been customary to expeditate them from the time

of the first Coronation of King Henry our grandfather. (VII.) No Forester nor Bedel shall for the future make any ale-shots, nor collect sheaves of corn or oats, or any grain, or lambs, or swine, nor shall make any gathering but by the view and oath of twelve Regarders; and when they shall make their view: so many Foresters shall be appointed to keep the Forests, as they shall think reasonably sufficient for the purpose. (VIII.) No Swainmote for the future shall be holden in our kingdom, excepting thrice a year; namely, in the beginning of fifteen days before the Feast of Saint Michael when the Agistators meet for the agisting of our Demesne woods; and about the Feast of Saint Martin, when our Agistators ought to receive our Pannage: and in those two Swainmotes the Foresters, Verderers, and Agistators shall meet, and no others by distraint; and the third Swainmote shall be held in the beginning of the fifteen days before the Feast of Saint John the Baptist concerning the fawning of our does; and at that Swainmote the tenants shall meet the Foresters and Verderers, and no others shall be distrained to be there. Moreover every forty days through the whole year, the Foresters and Verderers shall meet for seeing to Attachments of the Forests, as well of Vert as of Venison, by the presentment of the Foresters themselves and before those who are attached. And the aforesaid Swainmotes shall not be holden, excepting in those Counties where they were ac-

customed to be held. (IX.) Every Freeman may agist his own woods in the forest at his own pleasure, and shall have his pannage. We grant also, that every Freeman may drive his swine through our Demesne woods freely and without impediment, to agist them in his own woods or elsewhere as he shall be willing. And if the swine of any Freeman shall remain one night in our forests, he shall not on that account lose any thing of his for it. (X.) No man for the time to come, shall lose life or limb for taking our Venison; but if he shall be seized and convicted of taking Venison, he shall be grieviously fined, if he hath wherewithal to pay, but if he hath not the means to pay, he shall be thrown into our prison for a year and a day; and if, after one year and one day, he can find sureties, he shall come out of prison, but if not he shall abjure the kingdom of England. (XI.) Whatever Archbishop, Bishop, Earl, or Baron, shall be passing through our forest, it shall be lawful for them to take one or two Deer by the view of the Forester, if he shall be present, but if not he shall cause a horn to be sounded, lest it should seem a theft. (XII.) Every Freeman for the future, may, without danger, erect a mill in his own wood or upon his own land which he hath in the forest; or make a warren, or pond, or marle-pit, or ditch, or turn it into arable land, so that it be not to the detriment of any of the neighbours. (XIII.) Every Freeman may have in his own woods

the Eyries of Hawks, of Sparrow-Hawks, Falcons, Eagles, and Herons; and he shall likewise have the honey which shall be found in his woods. (XIV.) No Forester from henceforth, who is not a Forester in Fee-farm, giving to us rent for his bailiwick, shall take any Cheminage, within his bailiwick; but a Forester in Fee, paying to us rent for his bailiwick, shall take Cheminage; that is to say, for every cart two-pence for the one half year, and two-pence for the other half year; and for a horse that carries burdens, one half-penny for the one half year, and one half-penny for the other half year: and not that excepting of those who come out of their bailiwick by license of their bailiff as dealers, to buy underwood, timber, bark, or charcoal; to carry it to sell in other places where they will: and of no other carts nor burdens shall any Cheminage be taken; and Cheminage shall not be taken excepting in those places where anciently it was wont and ought to be taken. Also those who carry wood, bark, or coal, upon their backs to sell, although they get their livelihood by it, shall not for the future pay Cheminage. Also Cheminage shall not be taken by our Foresters, for any besides our Demesne woods. (XV.) All persons outlawed for forest offences from the time of King Henry our grandfather until that of our first Coronation, shall be reconciled to us without impediment; and they shall find securities that for the future they will not trespass unto

us in our forests. (XVI.) No Castellan, nor other person, shall hold Pleas of the Forest whether concerning Vert or Venison, but every Forester in Fee shall attach Pleas of the Forest as well concerning of Vert as of Venison, and shall present them to the Verderers of the Provinces; and when they shall be enrolled and put under the seals of the Verderers, they shall be presented to our Chief Forester, when he shall come into those parts to hold Pleas of the Forests, and before him shall they be determined. And these Forest liberties we have granted to all men; saving to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, and others, as well ecclesiastical persons as secular; Templars and Hospitallers, their liberties and free customs in Forests and without in Warrens, and other places which before had them. Also all those customs and liberties aforesaid, which we have granted to be holden in our kingdom, for as much as belongs to us; all our whole kingdom shall observe, as well of the Clergy as of the Laity, for as much as belongs to them. But because We have now no seal, We have caused the present Charter to be sealed with the seals of our venerable father, the Lord Gualo, T. T. Cardinal-Priest of St. Martin, Legate of the Apostolical See; and of William Marshal, Earl of Pembroke, guardian of Us and of our Kingdom, Witness the before-named and many others. Given by the hands of the aforesaid Lord Legate,

and of William Marshall, at St. Paul's, London, on the sixth day of November, in the second year of our reign.



EXPLANATORY NOTES

ON THE

Charters of the Forests.

THE copy of the Forest Charter which occupies the preceding pages, is interesting, not only as having been the very earliest granted by a Sovereign of the Norman line, but also on account of its recent recovery, after Sir William Blackstone, nearly seventy years since, supposed that all traces of it were irretrievably lost. His reasons for assigning a priority to this edition, rather than to the supposititious one which Matthew Paris attributes to King John, having been already mentioned on pages 37, 38, 237, 238; it may firstly be observed, in illustrating its contents, that there are but few variations between this instrument and the later Inspeximus usually printed in the Statute Books, which is, in general, either that granted in the 9th of Henry III., 1224; the Inspeximus of the 25th of Edward I., 1297; or his last Confirmation issued in 1299, the 28th year of his reign: concerning which, vide the preceding Essay, pages 38-46. The more important additions, however, will be sufficiently distinguished by referring to them in the present Notes, though they are much less copious than those on the Great Charters, which form the principal subject of this volume.

As the arrangement of the Introduction of this Charter is very similar to that of Magna Charta, the Reader is referred to page 160 for some remarks on the opening of that instrument. It may be observed, however, that the address of the Second Forest Charter of Henry III. granted in 1224,

has the words "to all his faithful subjects *who shall see this Charter*," which certainly allude to the extensive dispersion of it by Commissioners, who carried copies into every County to enforce its execution: and they may also have a latent reference to the private issuing of the First Charter, the circulation of which was probably much more limited: these words were also first inserted in the Magna Charta published in 1217: vide page 118. Another variation, which is likewise common to both instruments, is the declaration that the Charters were granted by the King spontaneously and of his own free will, instead of by the advice of Cardinal Gualo, the Earl of Pembroke, and his Council. This difference will, perhaps, be most particularly remarked by comparing the First and Second Charters of Henry III. with his famous third one, issued after Honorious III. declared him of full age, when the Barons suspected that he would recall the liberties he had granted them about seven years before. Vide pages 106, 119, 132; and 38 in the preceding Essay.

CHAPTERS I. III. Page 330.

The intent of these Chapters of the Forest Charter being to take away the illegal extension of the Royal Woods, it will be proper to introduce them by some account of their history and boundaries, that the nature and value of these clauses may be more perfectly understood.

The greater part of Britain originally consisted of Woods filled with wild animals, which were gradually cleared as the land became inhabited and dwellings were erected; the beasts retiring to those coverts which were still left standing, and lay remote from human habitations. The Saxons called these large remains of Forest-lands, *Wealds* or *Wolds*, signifying Woods; which term is still used to express the woody parts of a County, as in the instances of Kent and Sussex. For some time these coverts sheltered great numbers of wolves and foxes, but the former having been destroyed by King Edgar, between the years 961 and 964, and the other ravening animals being also reduced, the remainder were preserved as beasts of chase or luxurious food, whence originated the first protection of

certain places for their residence, which were afterwards constituted Royal Forests. Even in the times of the Saxon Heptarchy, however, about four centuries previous, it is supposed that Forests were appropriated by all the inferior Princes of Britain; and that when one Sovereign took possession of the throne, he also became lord of the numerous Woods which lay scattered over the whole country. The first authentic notices of the Royal Limits of Forests, occur in the Constitutions, or Charter of Canute, made in a National Assembly at Winchester, in the year 1016, Articles 27, 31, 33; but the antiquity of the English Forests is so remote, that there is no record of their original establishment, though they are repeatedly mentioned in ancient authors and statutes. The New Forest in Hampshire, made by William I., and the Forest of Hampton Court, erected in 1539, the 31st of Henry VIII., are the only two of which there is any authentic history; and even many of the additions made to the former, appear to have been on the borders of an anterior Forest, called Ytene. To these ancient Forests, however, several of the early Sovereigns of England made large additions, both for preserving of the game, and increasing their sport and jurisdiction; though such extensions were particularly oppressive to those who resided in their vicinity, not only by the spoliation of their property, but by the enlarged spread of the Forest-Laws, and the vexatious influence of their peculiar officers. These ancient additions of Wood-lands were so great, that it has been computed that nearly 17,000 acres were afforested in Hampshire, between the reigns of Edward the Confessor and William I.; by which a piece of land, amounting under the former Sovereign to £363 19*s.* 10*d.*, was reduced under the latter to £129. In extenuation of this oppressive practice it may be observed, that anciently a King of England could seldom divert himself by reading, or the encouragement of the more elegant arts; and, as he could not converse with common society, his principal recreation was removing his Court from one palace to another, each being surrounded by a vast Forest for the chase, which, in the view of a sportsman, could never be too spacious, whilst at the same time it was

supposed that large uncultivated tracts contributed to magnificence. To reduce the Royal Forests, however, to their ancient limits, and give back all the common rights of their tenants, is the purpose of the above Chapters of the preceding instrument; which, like the Charters of Liberties, is only declarative and restoring, neither giving any new freedom, nor conferring any additional privileges.

Such, then, having been the causes of extension in the English Forests, it will next be proper to give a few particulars of their legal establishment and limits, as well as of the proceedings for disforesting them according to the ordinances of the Charta Foresta.

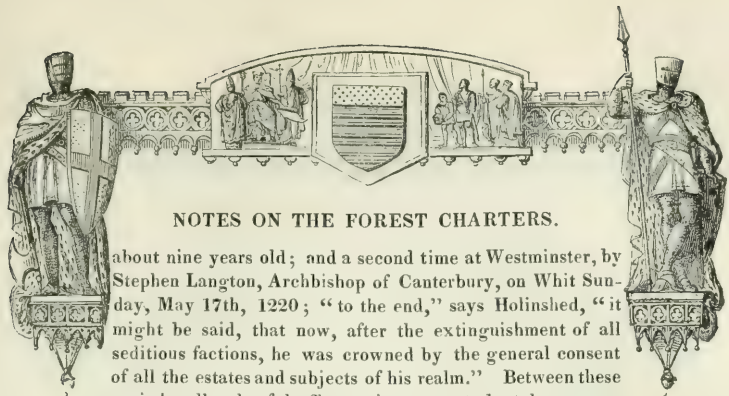
The word Forest is said to be derived from the Latin words *Fera statio*, an abode for wild animals, and should properly consist of eight principal features, as Soil, Covert, Laws, Courts, Judges, Officers, Game, and Bounds; a slight explanation of which will materially elucidate the provisions of the foregoing Charter. For the *Soil*, then, a Forest is a certain territory of woody grounds and fertile pastures to shelter and feed the deer, which could be established only in places naturally fitted for their formation. The *Coverts* of a Forest technically signify, thickets full of trees touching each other, those places wherein they are scattered and stand apart, being only termed Woods; and the importance of preserving these Coverts is esteemed so great, that even the Chief Justice of the Forests cannot license a tenant cutting his own Woods, unless there be enough left to shelter the wild animals. His license, also, extends only to felling, not to destroying these Woods, since the springs must be left in the ground that they may grow to be Coverts again: these retreats are called Coverts of *Vert*, which include every thing bearing of green leaves in a Forest. The Forest Laws, Courts, Judges, and Officers, will be explained in the subsequent Notes on this Charter; but it may be noticed that they are all peculiar, belonging to no other place, and that Forests differ from all other places since they are governed by laws, &c. of their own. The object of this constitution is the preservation of the place, the Vert, and the Venison; under which term is included all the *Game*

belonging to Forests; which consists of wild beasts and fowls of *Forest*, as the Hart, Hind, and Hare; of *Chase*, as the Buck, Doe, and Fox; and of *Warren*, as the Rabbit, Pheasant, and Partridge. It is the distinguishing mark of a Forest from all other Woods, that these animals are privileged to reside in it under the King's protection for his delight and recreation; but though no other creatures are protected in it by royal authority, no person may presume to hunt or hawk there without license from the Sovereign, or the Chief Justice in Eyre. Strictly speaking, a Forest must always be provided with beasts of chase, for when there are no animals to shelter, it is no Forest, and the tenants may fell their Woods, destroy their Coverts, and convert their pastures into arable land, which otherwise cannot be done without special license. Lastly, the *Bounds* of a Forest are irremoveable Marks, or objects ascending in height, which mark its extent, as a tower or tree; Meers, or the distance between the Forest, and the land of other men, whereon a mark is placed; and other boundaries known either by prescription or matter of record: these surround a circuit of woodland which has a liberty within itself, and lies open, though it may contain several enclosures, and many persons hold property within it. These boundaries shew how a Forest is known from other lands, for though it remain open, it is as securely enclosed by them as by a stone wall.

Such are the limits and characteristics of a Forest, the ancient manner of establishing which, was by the King issuing a Commission in Chancery under the Great Seal, directed to certain persons, declaring his intention of making one in a certain place and County, commanding them to perambulate and view it within a compass of so many miles, and to bound and meet off so much as they should consider sufficient, surrounding it with boundaries that he might know it; all which proceedings were to be certified to the Court of Chancery before an appointed day. The ground being viewed, and a proper extent of territory considered, the perambulation was made and boundaries fixed of bridges, rivers, hills, highways, and, sometimes,

particular trees, till the route returned to the spot whence it set out; all which circumstances were certified and returned to the Chancery, when the King became entitled to his Forest as matter of record. Another Writ was then issued from the Chancery to the Sheriff of the County where the Forest stood, reciting all the Commissioners' proceedings, with the circuit fully described, commanding him to proclaim it a Forest throughout the Shire, in Boroughs, Towns, Fairs, Markets, &c., in which, after a certain time no one should presume to hunt. The ground, however, was considered only as a *Chase*, until the King appointed its officers, and it was protected by laws. In establishing of these Forests in woody districts, the residents on such spots became enclosed with them; and, since all lands were originally in the Crown, when the King was possessed of the greatest part of the wood-country and waste land, he might make any of them Forest for want of inhabitants, though at a future time his Forests might stand upon the grounds of other proprietors.

The three periods referred to in these Chapters for unlawful afforestations, embrace a period of sixty-two years; since the general expression alluding to the time of Henry II. is explained in the fourth Chapter of this Charter, as extending to the date of his "*first* Coronation," which took place at Westminster on Sunday, December 19th, 1154, being performed by Theobald, Archbishop of Canterbury. The Sovereign was also crowned a second time at Lincoln, on August 30th, the Sunday after St. Bartholomew's day; and a third time at Worcester, with Eleanor of Aquitaine, either on Thursday, December 25th, 1158, or, as Roger Hoveden states, on Easter Sunday, April 12th, 1159. The other term which includes the Woods to be disforested, is the *first* Coronation of Henry III. by whom this instrument was issued, which Sir William Blackstone regarded as a strong reason for believing the present to have been the original Forest Charter; vide page 238 of the preceding Notes. King Henry III. was twice crowned; *firstly*, at Gloucester, on Friday, Oct. 28th, the day of SS. Simon and Jude, 1216, by the Bishops of Winchester and Bath, when he was only



about nine years old; and a second time at Westminster, by Stephen Langton, Archbishop of Canterbury, on Whit Sunday, May 17th, 1220; "to the end," says Holinshed, "it might be said, that now, after the extinguishment of all seditious factions, he was crowned by the general consent of all the estates and subjects of his realm." Between these periods, all unlawful afforestations were to be taken away, and the following Writ was issued for viewing and reporting on the increase of the English Forests.

"The King to all the Sheriffs of England, through whose bailiwicks John Marshall, Chief Justiciary of the Forests of England is to pass, Greeting. We command you, that immediately, with our faithful and beloved John Marshall, our Chief Justice of the Forests of England, you shall make a progress through your bailiwick for disforesting, by our precept, those Forests which ought to be disforested and separated from such as ought permanently to be kept as Forests, according to the tenor of our Charter of Liberties of the Forests, which we have granted unto our faithful subjects, throughout our kingdom of England: for which ye shall every one of you call unto you in every County, four lawful and discreet Knights, who shall elect Twelve of the most lawful and discreet Knights of the whole County, to make a Perambulation by the view of the aforesaid John Marshall, our Forester, through those parts which are to be disforested and those Forests which ought permanently to remain: and likewise clearly to enroll the measures and boundaries of the Forests, and the parts to be disforested with their measures and boundaries, and also the names of the Knights making the Perambulation to which they have set their hands, to us, under your seal and the seals of those who were making the inquisition. Witness, the Earl at Leicester the 24th day of July, in the second year of our reign." (1218.)

However little might have been done in this Perambulation, its expenses were the same year charged and levied on the Forest Counties as may be seen by the following memorandum entered on the Great Roll of the 3rd of Henry III.

"The men of Dorset and Somerset £100, for making a Perambulation in those parts in the Counties of Dorset and Somerset, which are to be disforested, and those parts which are to remain Forest, according to the tenor of the Charter of Liberties of the Forest, and for the measures and bounds to be placed in them on both parts; and for the disforestation of those parts which are to be disforested as aforesaid, according to the aforesaid meets and boundaries."

Upon the renewal of the Charters in 1225, about a month after Easter, the ordinance of the First Chapter of the Charta Foresta was carried into effect by the visi-

tation of Hugh de Neville, Bryan de Lisle, &c. though it seems that their Perambulations extended to the old Forests only, many of which, however, were disforested, and the lands built upon and cultivated by the proprietors. Afterwards, indeed, some steps were taken towards perambulating the new-made Forests, but they were conducted so slowly that most of them remained standing at the death of Henry III.; but in the reign of Edward I., three Bishops, and as many Earls and Barons, were appointed to be Perambulators by a commission under the Great Seal. By their report and decision, boundaries were then set up in them to fix their extent by law, after which, the King confirmed the whole of their proceedings: vide the preceding Essay, pages 45-47. The warrant by which these Perambulators surveyed the Forests, was according to the following form, issued in 1301, the 29th year of Edward I.

"The King to his beloved and faithful Roger de Brabazon, Greeting. Whereas we have assigned you as one, with certain others of our faithful subjects, for making a Perambulation in our Forests within our County of Salop, &c. We command you to be at Lichfield on the Morrow of the Ascension of our Lord next approaching, (Friday, May 12th,) ready from that time, with our said faithful subjects, to proceed in making that Perambulation, which we have commanded should then personally be made through all the boundaries which are in that place. And of this order you may neglect nothing; and therefore that which through default of dispatch in the said affair is left undone, shall not remain so in any place or manner whatsoever. Witness the King at Westminster, the 1st day of April."

The enrolled proceedings of these Perambulators, are still preserved under the title of the Forest Rolls, and contain particular descriptions in Latin of all the boundaries surrounding the Forests which were thus surveyed; a specimen of the report on those viewed in Oxfordshire in consequence of the above Writ, may be seen in Sir William Blackstone's *Introduction to the Charters*, page lxxii. note i. and a translation of another, made in the same year, on the New Forest, is printed in Mr. Lewis's *Historical Inquiry concerning Forests*, pp. 174-177. The general form of these records is the following:

"The Perambulation made in the County of Southampton in the presence of John de Berewyk and his fellows, assigned on this account

by the Writ of our Lord the King, as appears in the Roll of the Perambulation of the Forest of Wolvemere and Alsyesholt, in the presence of John de Romesy, Lieutenant of the Justice of the Forest, and in the presence of John Randolf, and in the presence of Gilbert Teye, John de Cauz, and William de Buttesthorn, Verderor of the Forest aforesaid. And the Forest begins," &c.

The Roll of Perambulation, however, concludes by stating, that the survey was made upon oath, both as to what is within and what is "without the Forest, according to the tenor of the Great Charter of the Forests." The whole proceedings were closed by a short Patent in the ensuing form:

"The King to all to whom the present Letters shall come, Greeting: Know ye, that we will and grant for us and our heirs, that the Perambulations made before——by those appointed to the same for our Forests in the County of York, shall, for the future, be held and observed throughout all the metes and boundaries contained in the same Perambulations, the tenor of which shall be followed word for word, and in the same manner."

Such, then, were some of the proceedings for disforesting the illegal boundaries of the Royal Woods, which were also farther amended in 1304-1305, the 33rd of Edward I., by the enacting of that Statute entitled *Ordinatio Forestæ*, regulating those disforested precincts, called Purlieus. The limits fixed by these Perambulations, &c. were again commanded to be observed, by an Act passed in 1327-28, the 1st of Edward III.; and they seem to have remained unquestioned and unbroken for nearly three centuries, until 1622-23, the 20th of James I., when, it is stated in an Act of his successor, some new enquiry and disforestation took place in the Forest boundaries: though as no other notice of it appears on record, it might have been only some slight examination by private commission from the Crown. In 1634-35, King Charles I. attempted a revival of the Forest Laws, in the hope, as it is supposed, of drawing thence a revenue independent of Parliament; at which time Henry Rich, Earl of Holland, was Chief Justiciary of the Forests, and is said to have executed the office with great severity. The Royal Woods themselves, too, appear once more to have had their boundaries considerably increased: the Forests in Essex were extravagantly said to reach from Stratford-Bow, to Colchester, and the limits of

Rockingham Forest were extended from six miles to sixty. Enormous fines were also imposed on trespassers in them; Sir Christopher Hatton was amerced in £12,000, Lord Westmoreland in £19,000, and the Earl of Salisbury in £20,000; though it is probable that much of these fines was subsequently remitted. In 1641-42, the 16th and 17th years of Charles I., Chap. 16., these evils were again remedied by "An Act for the Certainty of Forests, and of the Meets, Meers, Limits, and Boundaries of the Forests;" which recited the Act of Edward III., ordering the ancient Perambulations to be observed, annulled all subsequent proceedings for enlarging the Forests, and determined for ever their boundaries and extent. The last circuit of the Chief Justiciary of the Forest, was made in 1670, by Aubrey de Vere, Earl of Oxford; since which time the office has been filled by the Chief Justice of the Common Pleas.

Having provided for the taking away of unlawful Forest Land,—in which it may be observed, that this Charter follows the ordinances of the Magna Charta of King John, Chapters xlvii, liii. vide pages 59, 84, 85, 88, 89, 237, 238,—the first Chapter proceeds to secure the rights of Common, &c. in the remaining Forests to such as were anciently accustomed to have them. The Common of Pasturage in the Royal Forests of England, is a liberty granted to the tenants to feed certain of their cattle on any waste soil, as a kind of compensation for the free and unlimited range which the King's wild beasts have through the whole Wood. In the *Pleas of Parliament* made in 1304-1305, the 33rd of Edward I., Chap. 5, this Common is explained to signify the disforested parts; so that the tenants, who by disforestation are put out of the Forest, had no claim to Common in Woods, which still remained within the lawful bounds of a Forest.—*Manwood, Barrington, Blackstone, Lewis.* This explanation is also supported by the last provision of the third Chapter, which excepts from the Common of Pasturage the King's Demesne Woods, or those more immediately belonging to his own estate, and retained in his own possession: which is, in fact, only allowing to the Sovereign the same right of property as the most ordinary

freeholder. The respect, however, which the Charters of Liberties shewed to a person's own natural possessions, has already been noticed on pages 201, 202, 213.

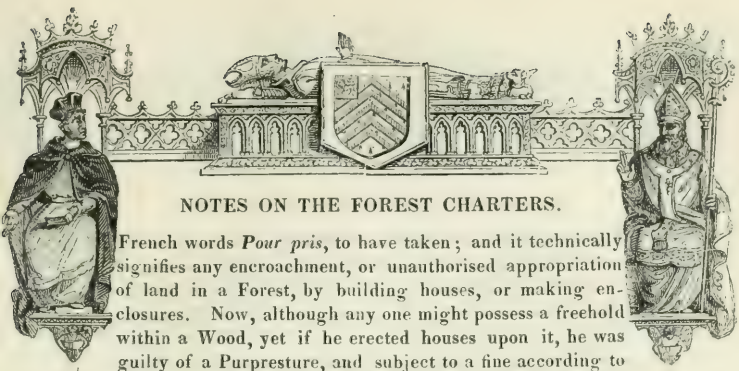
CHAPTER II. Page 330.

Like the preceding division of the Charta Forestæ, this Chapter is also one of those originally inserted in the Great Charter of King John, and is expressed in the very same words as those in which it was first written; vide Chapter xliv. pages 57, 84, 85: and it is also one of those reserved for consideration in the First Great Charter of King Henry III., vide pages 116, 237. Before the granting of the Forest Charter, all degrees of persons residing in a County containing a Forest, were obliged to appear before the Justice-seat whenever it was held, according to the strictest letter of the common, or general, summons, of the Court, the form of which was, "I command that you Summon, by honest Summoners, all the Archbishops, Bishops, Earls, Barons, Knights, and their Free-Tenants, who have lands, or tenements within the metes of the Forest of the Lord the King," &c. As many of these persons, however, had only possessions in the Forests whilst their residences were at a distance, the inconvenience of merely attending for ceremony at the Court was often extremely great; but Manwood remarks, that the present Chapter was intended chiefly to benefit those who lived in the disforested parts of the Royal Woods, by exempting them from any ordinary summons to the Justice-seat. There were, notwithstanding, certain exceptions, both to residents *without* the Forests *not* appearing on a Common Summons; as well as to dwellers *within* the Forests attending when it was issued. In the first instance, if a party possessed any lands or liberties within the Forests, on account of which any claim was to be preferred before the Justice-seat, he was then to appear on the first day of the Session, or the liberties might be seized by the King, and forfeited for non-claimer. The Reve or Steward, also, of every Forest Town, should appear on the first day of Session with four men of the same place, or be amerced. Those cases in which persons dwelling within the Forest were *not* bound to appear at the Justice-

seat on a General Summons, were when they were under 12 years of age, although they had lands of inheritance in the Forest; those who were sick, blind, or 70 years old, or upwards; and especially those who were in the King's service in another place. Archbishops, Bishops, Earls, Barons, and Knights, having lands within the Forests, but dwelling without, were also exempted from appearing at the Justice-seat upon a General Summons, excepting in cases of claim; and even then, they might attend by Attorney.—*Manwood.* As all Forest offences required a certain number of pledges or securities for the due appearance of the attached persons, the text of this Chapter exempts such from the benefit of non-attendance upon an ordinary summons; as well as parties otherwise involved in a Forest Plea.

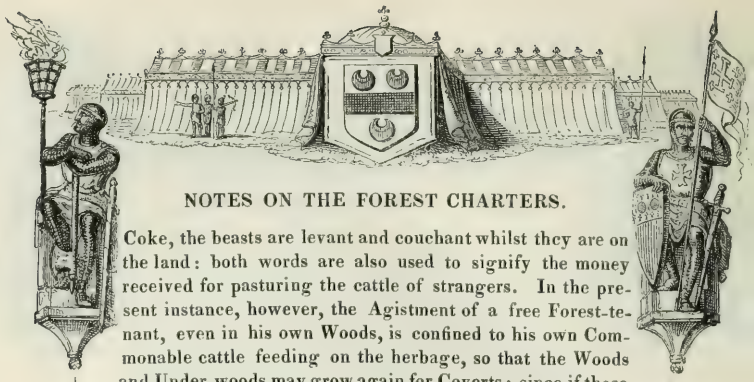
CHAPTERS IV., IX., XII., XIII. Pages 331, 333.

The intent of these Sections is nearly similar, being intended to restore and to preserve the rights of private Woods in the Royal Forests. What is implied by the term Woods in Forests, has been already explained on page 340; but as the text includes as well those which belonged to the King, as those appertaining to his subjects, and as even private property in Forests is bound by such laws as are proper for preserving the existence of the Forests themselves, the first of these Chapters contains a clause of indemnity for Forest-trespasses already past, and a provision of penalty for those which should be committed in future. The English Forests, as it has been stated, were for the most part originally the King's property; but various parts of them having at different times been granted to private persons, they cleared them from the Wood, and made the land arable or pasture. The cleared parts, however, still retained the name of Forest, and being held of the Crown, were a source of continual disagreement as to the respective rights of the King and the tenant, which the Charta Forestæ was permanently intended to decide. The fourth Chapter of this instrument recites three kinds of trespasses which possessors of those lands could not commit either on their own estates or in the King's Forests; *Purprestures*, *Wastes*, and *Assarts*. The first of these is derived from the old

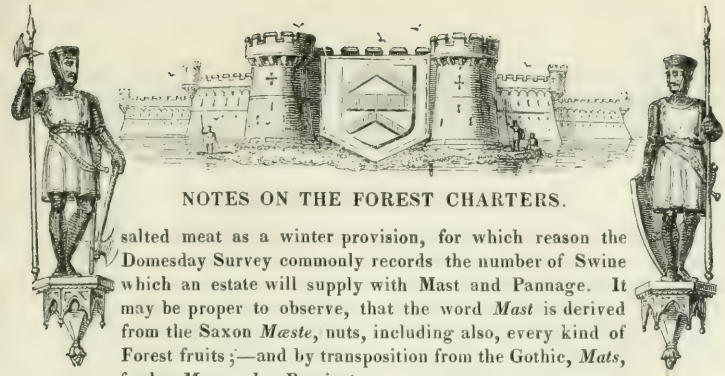


French words *Pour pris*, to have taken; and it technically signifies any encroachment, or unauthorised appropriation of land in a Forest, by building houses, or making enclosures. Now, although any one might possess a freehold within a Wood, yet if he erected houses upon it, he was guilty of a Purpresture, and subject to a fine according to the nature and extent of his offence; since every assumption of a privilege without license, is considered as a Purpresture in Forest Law. Of the nature of a *Waste*, some notice has already been taken on pages 166, 213: the word is derived from the French *Gaster*, and the Latin *Vastare*, to spoil; and it signifies any wilful and unauthorised mutilation of the Woods or Coverts for sale, &c. even on a freeholder's own property. The penalty for this trespass was also a fine, and the wasted place, as in all other instances, reverted to the King until it was paid. An *Assart*, from the French *Assartir*, to grub up, signifies the destruction of any Forest ground to convert it into Arable land: but all these offences were of much greater magnitude when they were committed within the boundaries of a Royal Forest. Thus, a Purpresture would convert it into a farm or a village; a Waste would deprive the Venison of their Lairs and Coverts; and an Assart would destroy the Vert and Warren by the ploughshare or harrow.

The property of private Woods in the King's Forests having been thus secured and protected, the other three Chapters of the Charter cited at the head of this note, provide for certain liberties belonging of right to the possessors of those Woods. Thus, by Chapter IX. a Freeholder is entitled to the Agistment and Pannage of his own Woods, to arrive at which, he is permitted freely to pass through those belonging to the King's own Lordship; and if his swine remained one night in them on the road, they fed free of penalty, which, probably, was supposed a sufficient time for them to reach any part of the Forest. The privilege of *Agistment*, signifies enjoying the pasturage of any part of a Forest, and with the law verb, to Agist; it is derived sometimes from the Latin *Ager*, a field; *Agito*, to drive or feed; and the French *Gesir*, to lie, or *Gite*, a lodging; because, says Lord



Coke, the beasts are levant and couchant whilst they are on the land: both words are also used to signify the money received for pasturing the cattle of strangers. In the present instance, however, the Agistment of a free Forest-tenant, even in his own Woods, is confined to his own Commonable cattle feeding on the herbage, so that the Woods and Under-woods may grow again for Coverts; since if those of a stranger were admitted, it is presumed that the lands and pasture would be eaten so closely, that the Venison would be left in want of food; it is, therefore, not permitted without a particular privilege, and a trespass on this law is fineable to the King at the next Justice-seat. Agistment in a Forest, is of two kinds; namely, of herbage of Woods, lands, and pastures, or of Woods alone, that is to say, the mast of trees, which is more properly Pannage. In Agistment of the first kind, Goats, Sheep, Geese, and Swine, are not considered as commonable cattle, or such as may be admitted to feed upon the herbage of a Forest: since the first two are said to taint the pasture with their breath, so that Venison will not eat after them, and sheep bite it so closely as to destroy it; but both were sometimes allowed by prescription or license. The food of swine in a Forest forms the second kind of Agistment, or *Pannage*, which is variously written in ancient Charters, as *Pathnage, Pawnage*, &c. being derived from the old French *Pasnage*, and properly signifying both the price paid for Swine feeding in the King's Forests, and the mast of woods and hedge-rows forming their food. The present Chapter of the Charta Forestæ, also provides that a Forest-freeholder shall have the Pannage of his own woods; but if his woods or hedge-rows are near, or adjoining, to the Royal Demesne Woods, then his Agistment of Swine cannot take place until after the King's shall be over,—which is about the Feast of St. Martin, Nov. 10th,—lest he should interfere with the Sovereign's Agistment. Although the feeding of Swine in Forests is at present but little attended to, their Pannage was anciently considered of great profit to such as resided in Woodland districts; since the people of this nation, and even the households of the Baronial Castles, generally used



salted meat as a winter provision, for which reason the Domesday Survey commonly records the number of Swine which an estate will supply with Mast and Pannage. It may be proper to observe, that the word *Mast* is derived from the Saxon *Mæste*, nuts, including also, every kind of Forest fruits;—and by transposition from the Gothic, *Mats*, food. *Manwood.—Barrington.*

The 12th Chapter of the Charta Forestæ, contains a recital of the various ways in which a Forest Freeholder may employ his own Woods, "without danger," as it is translated by Ruffhead, though the words *sine occasione* may rather be rendered "without being fined," or, "without trouble" for doing so, which will include both fine and any other legal proceeding. The proprietor, then, might occupy his land with Mills, Springs, Pools, Marl-Pits or Dykes, or turn it into Arable land; provided he did not enclose them, kept without the Covert, and did nothing which was injurious to the public Forest or to his neighbours. Thus, if a Mill were erected on a Forest-river, or a Dam formed, or a Water-course stopped, so that the water overflowed and drowned the meadows, pastures, or any common highway, it became a matter of complaint at the Justice-seat; and was fined at the discretion of the Chief Justiciary in Eyre, in a great sum, with sureties to amend the default before a limited time. The liberty of having a private Warren in a Forest is an erroneous insertion in this Charter; since it was permitted only to a Freeholder in a Free Chase, by prescription, grant, or allowance in Eyre, which pre-supposes a grant; and any other assumption of it is proceeded against as a trespass. The digging of Marle-pits in ground not belonging to the King, in the purlieus or vicinages of Forests, as it occasioned danger and inconvenience to the hunters, was at one period frequently prosecuted in the Forest-Courts, which imposed heavy fines for the offence. The liberty of procuring Marle, however, was an important privilege to all the agricultural tenants, since it was in general use through England as a manure; and was probably known in Britain before the time of Pliny. In the Statute of Wales issued in 1283-84, the 12th of Edward I., the Sheriffs and

Coroners are ordered to enquire concerning Marle-pits lying near the public road; which is a proof of early attention and knowledge in the improvement of British lands.

From the provisions concerning Hawks, Falcons, &c. contained in the first clause of the 13th Chapter of this instrument, it would seem that the King claimed them wherever they were found; as the word *Eyries* signifies rather the natural, than the artificial, places for breeding them, it being derived of the French *Aire*, the nest of a bird of prey. To persons of only ordinary property, however, this restoration of the old English Common Law, could scarcely have been of very considerable importance; for hawking was a costly sport, best fitted for Royalty and the greater Barons, but though the birds themselves were of great value, they required much care and time to tame, were useless during the spring and summer, when they devoured a great quantity of food, and wanted several attendants to keep them in order. Some tenants, however, were, by the grants of their lands, obliged to procure Hawks, &c. for their lords. Ethelstan II., who reigned over England from 925 to 940, exacted birds "which knew how to hunt others along the atmosphere;" and it has been already shewn on page 207, that part of the farm of the Royal Demesne Towns was paid in Hawks. The second part of this Chapter secures to the woodland proprietor, all the Honey found in his Woods; which was certainly a much more important gift than it would at first appear, since the Hon. Daines Barrington remarks, that perhaps there has been no law-suit or question concerning it for the last 300 years. In the middle ages, however, the use of Honey was very extensive in England, as Sugar was not brought hither until the 15th century, and it was not only a general substitute for it in preserving, but many of the more luxurious beverages were principally composed of it, as Mead, Metheglin, Pigment, and Morat, and these were famous from the Saxon days, down even to the time of the present Charter. In the old Danish and Swedish Laws, Bees form a principal subject; and Honey was a considerable article of rent in Poland, in which it was a custom to bind any one who stole it to the tree whence it was taken.

The Baron de Mayerberg also relates, that when he travelled in Muscovy in 1661, he saw trees there expressly adapted to receive bees; which, even those who felled their own wood, were enjoined under a penalty to take down in such a manner, that they who prepared them should have the benefit of the honey. Nor was the wax of less importance to the woodland proprietors of England, since candles of tallow are said to have been first used only in 1290, and those of wax were so great a luxury, that in some places they were unknown; but a statute concerning wax-chandlers, passed in 1433, the 11th of Henry VI., chapter 12, states that wax was then used in great quantities for the images of Saints. Only referring, however, to the well-known use of large wax tapers by King Alfred in the close of the ninth century; it may be observed, that in the Laws of Hoel Dha, King of South Wales, which are acknowledged as authentic historical documents, made about A. D. 940, of much older materials,—is mentioned the right of the King's Chamberlain, to as much wax as he could bite from the end of a taper. *Coke—Manwood—Barrington—Statutes of the Realm.*

CHAPTERS V. VII. VIII. XIV. XVI.

Pages 331, 332, 334, 335.

As these sections were all intended to restrain the oppressions of the keepers of the Forests, and exactly to define their real duty, it will perhaps form a more connected illustration, if they be all considered in the same note: introducing in their proper places, some notices of those officers and customs which are not mentioned in the Charter itself.

The 5th Chapter provides for the time of the view of the *Regarders*, who were officers of the Forest so early as the reign of King Canute, being mentioned in Chapter 2 of his Charter, when they were 16 in number, and were known by the Saxons under the name of Middle-men, and by the Danes by that of Young-men; until, in the Assizes of the Forest, made by Henry II., twelve Knights were elected on the King's Writ, who took the modern title of Regarders, from the French *Regardeur*, a viewer or looker. At the commencement of this Monarch's reign, the Forests

were found without any of these officers, the Woods very much destroyed, and no Venison left in them. As the wood-men paid no attention to the Forest, the Regarders were instituted to survey the whole of it every third year, previously to the meeting of the Justice-seat, as well to lay before it an account of the territory, as of the offences which had been commited within it; their duty, according to Lord Coke, being to see, enquire, enroll, and certify. In all this, their proceedings were very similar to those of a Jury in Common Law: since their number was to be made up twelve, if any of them were sick or dead; their view and certificate could only be made by the whole of them together; and unanimity was required in their verdict. The manner of their view referred to in the text, was ordained in the *Assisæ Forestarum* of Henry II., being the ancient English Forest Law, upon which many parts of this Charter are founded. It provided that the Regarders should go through the whole of their Forest and bailiwicks, and carefully enquire into the state of the King's wild beasts, and the Forest in general; but they were to be strictly confined to their own boundaries, since there might be places within the metes of a Forest, and yet out of regard; and those who had woods in such places where the wild beasts sheltered, or those who had them especially privileged to be out of regard, were not to be impeached by these officers. The King's Forests only can be dignified with Regarders, who were originally Knights, made by Letters Patent from the Sovereign, or the Chief-Justice in Eyre, directed to the Sheriff, who selected them in his County-Court. The attention of the modern Regarders is confined to the woods and timber belonging to the Crown; and any ordinary lawful person may be put into the office. Another officer of nearly the same rank as a Regarder, was that called a *Ranger*, whose duties originally arose out of the Chartæ Foresta; since those parts of a Forest which had been illegally made and disforested were under his superintendance. These were known by the various names of *Pourallée*, from the French *pour aller*, to go, alluding to their perambulations; *Purlieu*, from *pour lieu*, for the place,

referring to its particular privileges; and *Pourluy*, from *pour lui*, for him, namely the tenant of such a place. But although these parts were no longer Forest lands, yet the King had still an interest in all game which strayed into them, excepting against that person in whose lands it might be found. The Rangers, however, were to chase it back to the Forest, though if the tenant held lands and freeholds to the amount of 40*s*. he might keep greyhounds and hunt the animal on his own grounds, towards the Forest, but in no manner preventing its return, either by its own act, or that of the keeper. A tenant, whose possessions were not 40*s*. yearly, was to hunt with "little dogs" only; and the whole privilege of hunting in the outskirts of a Forest, was guarded by many restrictions and limitations. Thus, game could be pursued by a Purlieu-tenant, only when it started in his own lands, when he was to go after it himself, assisted by his own servants only; the dogs were to be called off, so that they should not enter the Forest, and if they had wounded the game, so that it died upon reaching it, the body belonged to the King; though if the hounds had fastened upon a Deer, which drew them into the Forest, they having been in vain called off, the Purlieu-tenant might enter and take the venison: no cross-bow, nor other engine was to be used, in preventing the return of game to the Forest; and in 1428-29, the 7th of Henry VI., Judge Cokaine held, that the King had even a right in a strayed hart, by sending a Forester after it to the next town, to make proclamation that no man might touch it. There were also certain seasons when hunting in the Pourallées was prohibited, as in the night, on the Sunday, in the Fence-month, more than three days in the week, within forty days after the King's general hunting, and when the Forester had given notice of serving warrants in the Pourallées. Offences against these points were to be presented at the next of any Forest Court; and it was the Ranger's duty to enforce their observance.

A very principal part of the oppressions of the Forest Laws, consisted in the number and extortion of the Forest Officers, which the 7th Chapter of this Charter was intended

partly to abolish; firstly, by taking away illegal collections of the officers, and secondly, by reducing their number. With respect to the unauthorised gatherings of the ancient Foresters and Bedels, the *Scot-ale*, or *Ale-shot*, mentioned in the text, was one of the most common. This was, when any Forest-officer, under colour of keeping a house of entertainment, used his authority to procure custom from the tenants: but if the fact were proved before twelve Jurors at the Court of Swanimote, and General Sessions of the Forest, the officer was fined and dismissed from his office. The word *Scot* is Saxon, and signifies a gathering or contribution, whence Lord Coke explains the Scot-ales of the Forest Charter, to be a collection made for liquor for the Forest officers, "when they came to the house of any whereunto others are contributary within the Perambulation of the Forest, which was then called *Potura*, a drinking." A famous Itinerary, made in 1331, the 5th of Edward III., shews, however, that this demand had increased to a much greater oppression before it was finally removed. It is there called *Fillenale*, an ale-feast, or filling of ale; and it also asserts, that "it is a custom claimed by the Foresters, and also by the Bailiff of the Hundred, to receive provisions, as well for themselves as for their men, horses, and dogs, of the tenants and inhabitants within the perambulation of the Forest or the Hundred to which they belong, and to pay nothing for the same." The Statute of Purveyors made in 1350, the 28th of Edward III., Chapter vii, at length abolished these illegal gatherings, and restored the ancient fees of the Foresters, as allowed by the view of the twelve Regarders. The present Chapter, however, provides against another kind of unlawful demand made by Foresters, namely, the taking of corn, sheep, or swine, as pretended dues of their office; clandestinely compelling them from such as have right of Common in a Forest. Yet as a Forester, if he were reduced to poverty, might sell ale, and have charitable gatherings made for him, without incurring a penalty for Scot-ale; so he might also collect any other things, provided he did it by Tenure, Grant, or Prescription. As by Tenure, if land were held in the King's

Forest, to pay 5*s*. or one sheep, or lamb, or corn, &c. to a Forester yearly; it is lawful by grant, whether issued by the King or a Forest-tenant in support of his office, in both of which cases, if the right were denied, though the Forester could not compel it, the King might; and by Prescription collections became legal, where a Forest and officers have existed time out of memory; and a Forester in Fee may prescribe in himself, lawfully to have and collect 1½*d*. daily throughout the year. The first division of the present Chapter of the Forest Charter, was founded upon Chap. xlviii. of the Magna Charta of King John, for taking away of evil customs in Forests, afterwards reserved for farther consideration, vide pages 84, 85, 116; but another provision of almost equal importance is added in the text, namely, that the number of the Foresters appointed shall be reasonably sufficient for keeping the Forest. Before this regulation, the Forest tenants were extremely oppressed by these officers being very numerous; who had no other maintenance than that which they could procure by exaction. The *Ordinatio Forestæ* of 1304-1305, the 33rd of Edward I., Chap iii. also provided against this supercharge of the Forests, by causing them to be enquired into at the Swanimote meeting, and if found, to be certified from thence to the Justice-seat, and removed. The proper number of Foresters, appears from this Charter, to be regulated by the quantity of ground contained in the Forests to which they belong; as, if they be divided into Walks and Bailiwicks, there should be one or more appointed to each. A *Forester* is a sworn officer, whose duty is the preservation both of Vert and Venison, and to attend upon the wild animals within his district, in which he is also to attach and present Forest offences. He is usually made by Letters Patent under the Great Seal, though some Foresters held their offices in Fee-Farm, or by payment of a certain rent for them, as it is stated in Chapter xiv. of the present instrument; and in acknowledgment of their tenure, every Forester, when he first appears at the Justice-seat, which he is always bound to attend, ought to deliver his horn to the Chief Justice in Eyre, kneeling; upon which it is given to the Marshal, and

a fine of 6*s.* 8*d.* is paid for his returning it. Another officer of this class was called a *Riding Forester;* whose duty was, nevertheless, merely ceremonial, and consisted in leading the King whenever he hunted in person. The word *Forestarius*, however, occurring in this Chapter, does not simply imply a Forester, but may also be interpreted a Wood-ward, or officer whose duty was especially to preserve the Woods of a Forest, as well within its lawful boundaries, as on the estate of any tenant. He was, probably, at one period, obliged to reside in the Forest; and on no account was he to fail of attending the Justice-seat, where he presented all offences within his charge, and, if called upon, resigned his hatchet to the Lord Chief Justice in open Court. For some time past, this office has been executed by deputy, though its importance has increased from the King's Dock Yards being supplied with timber from the Royal Forests. It remains only to be observed, that the present Chapter notices another officer of inferior rank, who is also prohibited from practising the exactions of the Foresters: this is the *Bedel*, a person employed to summon Forest Courts, execute processes, and make proclamations, whence his name is derived either from the Saxon *Bydder*, to call, or the Norman French *Bedeau*, a Bailiff, or Apparitor. Before entirely quitting the subject of Foresters, it will be proper to mention the right conferred by Chapter xiv. of Foresters in Fee Farm, or those who paid any part of the value of the land without personal service, taking *Cheminge*. This expression is derived of the French word *Chemin*, a way, and signifies a toll due by custom for having a way through the Royal Forests to the alarm of the venison; which is sometimes called *Pedagium*, or payment for foot-passage. The provision contained in this Chapter, that Cheminage should be taken only in the King's Demesne Woods, was omitted in the succeeding Forest Charter and Confirmations.

The duty of these officers, was also most importantly declared in another point by Chapter xvi. of this instrument, which seems to have been modelled on the 24th section of the Great Charter of King John, see page 77, and pro-

vides that Castellans shall not hold Pleas of the Forest, as that ordinance took away their power of holding Pleas of the Crown. The oppressions used by the keepers of these fortresses, have already been noticed on pages 204-206; and the additional influence which the Forest Law would have given them, is by the present Charter very properly transferred to the King's Chief Forester, or Justice in Eyre for the Forests, for the same reasons as those already given for confining crimes cognizable by the Crown, to the investigation of the Judges of the realm. The power assumed by the keepers of castles, probably arose principally from their being considered by Forest Law as the Chief Wardens of Forests, when their fortresses stood in the woodland districts; and the Lord, or Chief Warden, was a great officer next to the Justices, to bail and discharge offenders, though his duty was not judicial. The trial of Forest offences being thus limited, the Foresters are directed to attach and present them to the *Verderors,* whose office was judicial, and who were chosen in full County Court by the King's Writ. They, however, were only to receive and enroll these depositions, putting them under their own seals, until the Justice in Eyre made his circuit, when they were to be determined. The title of Verderors was originally derived from the Latin *Viridi*, the green hue; it being the duty of this officer to look after and protect the Vert, which has been already explained; and he was required to be an Esquire, or gentleman of good estate, learned in the Forest Law, since his power greatly resembled that of a Coroner, excepting that his enquiries were into the destruction of the Woods and Venison, instead of the death of a human being. To the Royal Forests usually belonged four Verderors, who presided at the Court of Swanimote, an assembly composed of the freeholders and inhabitants of the Forest, for examining into those offences which were afterwards determined at the Justice-seat. The Verderor could formerly claim the fee of coursing and taking such deer as he might start in going to and returning from these Courts; but it is now changed into the annual gift of a buck and a doe: his power at the present time, however, is nearly

similar to that which he possessed by the ancient Forest Law.

The Eighth Chapter of this Charter is the first which refers to those peculiar Courts of the Forests, by which their own law is administered within themselves; and it was inserted principally to provide for the times of meeting and the occupation of the Court of Swanimote. The frequent holding of inferior Courts was one of the great oppressions of the Norman Barons, &c.; and this clause was intended to remedy such a practice in the ancient Wardens and Foresters, who summoned the sylvan Courts as often as they thought proper, without any regard to the convenience of the Forest inhabitants who composed them. They were at length held so often, that many persons could not attend; in consequence of which, they were excused only on the payment of certain fees. The statute in the text has provided against the continuance of such a custom, by appointing only one Swanimote, at which the tenants were to meet the Forest officers; and the following was the routine of matters belonging to them. At the first, held on Holy Rood day, (14th Sept.) fifteen days before St. Michael's day, (29th Sept.) the Agistators met to receive the money for the pasture, or herbage of the King's Woods, and to take account of the state of the Vert. These were persons appointed by Letters Patent to attend upon the King's Woods and Forests, to take in cattle to pasture, and to watch that they committed no damage to the Vert. An account of their Agistment has already been given on pages 349, 350; and the money which they received for it was to be given up to the Chief Justice in Eyre, at his Court. At the same Swanimote, also, Swine were taken into the Forests to feed upon the mast until the next, which was held forty days after. The second meeting took place upon St. Martin's day, (11th November,) when the Agistators met to receive the Pannage, or money for the Swines' pasturage in the Woods since the last assembly, which was done in the presence of the other Forest officers and entered upon the Verderors' roll. The third convocation was about the festival of St. John the Baptist, (24th June,) and fifteen

days before Old Midsummer. The officers then met concerning the defence of the King's does during their fawning, which time was technically called "the Fence month." It lasted 31 days, and if during that period, any swine, sheep, or goats were found in the Forest, they were forfeited to the King: the fawning time ended on St. Cyrill's day, (6th July,) fifteen days after Midsummer. At these Swanimotes, although in the text only three kinds of Forest officers are directed to be present, nevertheless, by an alteration of this law by the Kings Edward I. and Edward III., all the officers were ordered to be present, with all freeholders and lawful men of the Forest. Offences committed against the Vert, were, by the same statute, directed to be produced at the next Swanimote after their commission. Before quitting this subject, it may be proper to observe, in illustration of the succeeding clauses, that there was no specified time for the free tenants of the Forests, feeding their own, or other's cattle upon their own pastures: and that the term Swanimote, is derived of the Saxon words *Swein*, a minister, and *Mote*, a meeting; because it consisted of the Forest officers.

For the more effectual enforcement of the Forest Laws, however, these officers were directed by Chap. viii. of this Charter, to meet every forty days throughout the whole year, whence the assembly was called the Forty-days Court, or Court of Attachment. The legal verb to attach, is derived from the French *Attacher*, to take, or apprehend; and a Forest attachment signifies the taking of some security, that an offender shall be produced at the proper tribunal to answer for his offence. In Forest law, this security, or attachment, may be made three different ways; firstly, by the offender's goods being taken and detained until he shall give sureties that he will appear to answer for his fault at the next Justice-seat: secondly, by the offender being obliged to procure some who will be pledges for his appearance, whilst he himself is *mainprised*,[a] or a prisoner at large until the time of the next Court: thirdly by taking

[a] Derived from the French *Main* and *Pris*, a taking by the hand, signifying a gentle restraint.

the offender to prison without bail, until he be liberated by the King's special warrant, or by one from the Chief Justice in Eyre, or the Chief Warden. Each of these methods of attachment were enacted for the punishment of peculiar crimes; as for instance, the first was for any offence committed on the underwood, bushes, furze, &c. technically called the *Nether Vert;* this attachment might also be made for all Forest misdemeanours: the second was for enclosures, or grubbing up of woods in the King's Forests: and the third was for the Forest offences generally, after the offender had continued in his crimes contrary to his sureties, mainprise, and pledges. The word *Presentment*, which occurs in the same clause of this Charter, signifies, in the language of Forest law, a formal declaration made in writing, from the Foresters to the Verderers in the Court of Attachment, of any Forest offence which had been committed. The presentment was then enrolled and transferred to the Swanimote, before which the criminals underwent trial and conviction; but the determination, judgment, and fine, belonged to the Court of Justice-seat only.

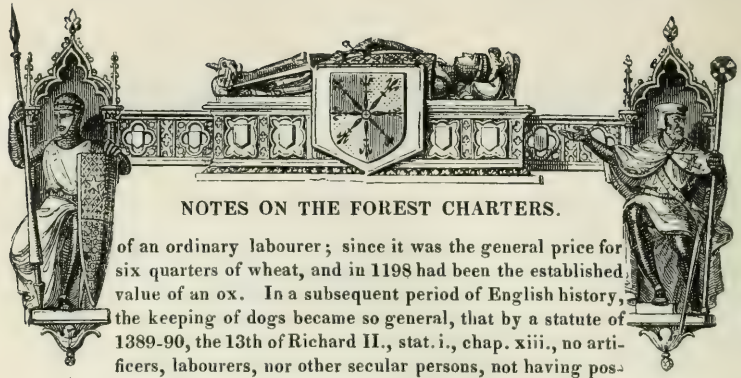
This was the highest tribunal of the Forests, and the *Chief Justice in Eyre*, who presided at it, was at the head of this division of the English legislature. Some particulars of his office have already been given on pages 345, 346; and it may be observed in addition that it was one of great trust and dignity, which may be traced to so ancient a period as the reign of Henry II., 1184. Manwood states, that so high were the honour and the authority connected with it, that it could not be executed by any other than a Peer, who was one of the Privy Council. The title, *in Eyre*, alluding to the circuits, or journies of these English Justiciaries, is derived from the French word, *Erre*, a course; for which reason, in the ancient law books they are denominated *Justiciarii Itinerantes*, or Travelling Justices, and they were originally created by the King's writ. The Court of the Chief Justice in Eyre was a Court of Record-that is to say, a Royal tribunal held in right of the King's dignity and Crown, having power to hold Pleas of the Crown, and to fine and imprison; the acts and proceedings

of which were enrolled in parchment for perpetual memorial and testimony, becoming *Records* of indisputable authority. In this Court were to be tried and determined all trespasses, pleas, and causes of the Forest, which had been presented and enquired into at the inferior Courts; and with the Chief Justice in Eyre, were associated other magistrates who were called Chief Justices of the Forests.

Such were the peculiar Courts and officers, belonging to this branch of the ancient English law: but it may also be noticed, that there were several inferior persons attached to the Royal Forests, whose duties were expressed in the names of their offices; as Bow-bearers, Keepers, Marksmen, Verminer, and Sub-verminer. Some Forests also have peculiar employments and officers, of which others are wholly destitute.

CHAPTER VI. Page 331.

For the safety of those who used formerly to be Forest tenants, they were allowed to keep certain dogs in their houses, provided they were lawed, or expeditated, according to the Forest customs. The dogs which might legally be retained were mastiffs, and a kind which in King Canute's Constitutions, and the Assizes of the Forests are termed "little dogs:" in the latter laws, Article 16, it is enacted, that they shall be allowed to attend on mowers in the pastures instead of great mastiffs, which might frighten the King's deer. With the exception of particular instances, where the King granted a dispensation, mastiffs were to be expeditated or lawed, which was the cutting off three claws from the fore-foot, in order to disable them from running at the Venison, and for this purpose at the Court of Regard, which was held once in every three years, all dogs dwelling in the Forest were brought up for examination. There were, however, some especial instances, wherein the Kings have granted Charters for the retaining of mastiffs unexpeditated, as well as for the keeping of greyhounds and spaniels, which was otherwise attended with a very heavy fine. The penalty for having dogs unlawed, as the Forest Charter states, was then three shillings, which would be equal to about £3 of modern money; and prove almost beyond the payment



of an ordinary labourer; since it was the general price for six quarters of wheat, and in 1198 had been the established value of an ox. In a subsequent period of English history, the keeping of dogs became so general, that by a statute of 1389-90, the 13th of Richard II., stat. i., chap. xiii., no artificers, labourers, nor other secular persons, not having possessions to the yearly amount of 40s., nor any clerical person not holding a living to the value of £10 annually, should keep any greyhound, or other dog to hunt: nor use ferrets, keys, nets, hare-pipes, cords, &c. for taking or destroying deer, hares, conies, or other game, under penalty of a year's imprisonment. But though this may be considered as the foundation of the present system of the game laws, yet it appears to have been established, at least in part, for the improvement of the manners of the common people; since the Act sets forth that "divers artificers, labourers, servants, and grooms, keep greyhounds and other dogs, and on the holidays, when good christian people be at church, hearing divine service, they go hunting in parks, warrens, and connigries of lords and others, to the very great destruction of the same; and sometimes under such colour, they make their assemblies, conferences, and conspiracies, to rise and disobey their allegiance."

CHAPTER X. Page 333.

The present division of the Forest Charter was the first enactment which effectually softened the severity of the ancient feudal game laws; of which some notice has been taken in the preceding Essay, pages 5-7. In the Constitutions of Canute, many of the Forest offences were to be expiated by fines; though the penalties for others were characterised by great cruelty, and the whole were modelled upon the peculiar principle of the ancient Northern laws, that of making the forfeiture depend upon the quality of the thing offended against, as well as the rank of the criminal and the nature of his crime. Thus, if violence were offered to one of the chief men of the Forest, a freeman was to be fined in all he had, a villein was to lose his right hand, and either of them for a second offence was to be put to death. If a bondman, whether casually or wilfully, chased a Forest ani-

mal so as to make it pant, he was to lose his skin; trespasses against such beasts in general, as well as on the Vert of a wood, were punished by fines, as an infringement of the Royal chase; but killing a Royal beast was considered a capital crime, for which a freeman lost his freedom, one who was unfree became a bondman, and a bondman lost his life. Edward the Confessor, though he instituted many excellent laws, had one upon this subject of equal cruelty with the preceding, which is recorded in a volume in the Exchequer, and declares "I will that all men do abstain from hunting in my woods, and that my will shall be obeyed under penalty of life." That clause of the Forest Charter now under consideration, provides that an offender should be seized in, and convicted, of taking Venison, before he could be sentenced to outlawry or fine. In Forest law, there are four ways of being *taken in the manner*, as it is technically denominated. The first of these is termed *Dog-draw*, which is when any one has wounded a wild beast, and is found drawing a dog after him to recover it: the second is called *Stable-stand*, and signifies a standing ready to shoot at deer, or being concealed by a tree with hounds ready to slip: the third is denominated *Back-bare*, which is when a wild beast has been killed by any one in the Forest, and he is found carrying it away: and the fourth is named *Bloody-hand*, which is when a man is found in the Forest in a suspicious manner and bloody. All these methods of being taken with the manner, subjected the criminal to the fine mentioned in the text.

CHAPTER XI. Page 333.

The present division of this Charter is in some degree connected with the preceding, since it is intended to declare at what times, and by what persons deer might lawfully be taken in the Royal Forests. The ancient privilege of the Verderors, to course and kill such Venison as they might start in going to, and returning from the Swanimotes, has been already referred to; but the ordinance of King Henry's First Forest Charter limits this chase to the superior Clergy and the Baronage; whilst his second granted in 1224-25, farther confines it to such times as they shall have

been going to, or coming back from the Court, by the King's command; allowing them the same privilege in returning. Lord Coke remarks on this Chapter of the Forest Charter, that the personages mentioned in it are Peers of Parliament, and that the King's command, above referred to, alludes to the writ of summons calling them to Council, the liberty of hunting being then conceded to them as a recreation, before and after the discharge of their duty, for which reason it is permitted to the spiritual persons mentioned in the text, though against the Canon Law. It is also added, that a Forest officer cannot at any other times permit a nobleman to hunt in the Forest; though the King can do it out of his own grace; but in attending and departing from the Parliament it is done by law, and the deer may be killed by his own dogs and his own bow. Barrington observes, that from the privilege being confined to the Peers, the Commoners of Parliament could not be considered of much importance. On this point, however, it may be remarked, that it is by no means certain, that Citizens and Burgesses were at this period summoned to Parliament at all: though the want of Writs calling them thither before 1294-95, the 23rd year of Edward I., (see page 184 of the preceding Notes,) is no proof that they never existed, and ought never to have been so considered. It may also admit of a doubt whether this Chapter does positively refer to the Peers and Prelates as Lords of Parliament; since the earliest Writ of Summons now extant is supposed to be one to the Archbishop of York, dated in the 26th of Henry III., 1241-42, though the general notion of Parliamentary representation is connected with the famous one first cited by Dugdale, of 1265, the 49th of the same Sovereign. The presence of the Forester is a natural and proper provision; but the order for sounding a horn, lest their chase of the deer should appear a theft, from its silence, probably arose from that cautious and peculiar feature of the Anglo-Saxon law, which suspected all strangers and persons who travelled without giving public notice of their journies. It was therefore ordered by these institutions, that if a stranger went out of the road, or through woods, he was to blow a horn,

or shout aloud, under penalty of being considered and punished as a thief. It has already been mentioned that another limitation of hunting permitted in the King's Forests, was that it should not take place in the night: which appears to have been the remote original of two acts for preventing persons hunting in the English woods in disguise in the night season; though they were also intended to preserve the national tranquillity and morals. The first of these statutes was passed in 1485, the 1st of Henry VII., chap. vii., which set forth that numbers of individuals were accustomed to hunt in the Forests, &c. of Kent, Surrey, and Sussex, arrayed in a warlike manner, and having their faces painted or covered with visors; under the disguise of which were committed murders, robberies, insurrections, &c. &c. Another act to the same effect, though of wider extent, was that passed in 1722, the 9th of George II., Chap. xxii., for the suppression of evil-disposed persons going armed in disguise; section i. of which, was especially directed against disguised hunters.

The conclusion of the Forest Charter, in its provisions of mutual observance throughout the kingdom, and saving of the rights of other Lords, greatly resembles the termination of the Second Magna Charta of King Henry III., see page 129, Chapters xlv. xlvi.; the intent and nature of which, will be found explained on pages 268, 269, of the preceding Notes. It has also been mentioned, that the Great Seal of King John having been lost in his last fatal retreat in Lincolnshire, the early Charters of his son were authenticated by the impresses of William Marshall, the Protector, and Cardinal Gualo, the Papal Legate: see page 325. Of that excellent Baron, some account will be found on page 285; and it will be remembered, that the ecclesiastic performed the Coronation of the youthful Henry III. *James Gualla*, or *Gualo*, which is said to be the modern orthography of the family of Galon, was born at Becheria, a town of Lombardy. He was educated in a Society of Canons Regular near Pavia, and was elected Bishop of Vercelli, though he was unwilling to accept of the dignity. In 1205, Pope Innocent III. created him a Cardinal, and

employed him in France against the Albigenses, and for preaching his projected crusade. After the death of King John he became Legate to England, and contributed greatly to the establishment of a peace between this country and France. Honorius III. commissioned him to reform the Clergy at Vercelli, and he was also Legate to Puglia in Naples to the Emperor Frederic II. He died there about the year 1235, in the Pontificate of Gregory IX., having the reputation of great piety, and having founded the Monastery of St. Andrew in Vercelli.

It has been already shewn that the subsequent editions of the Forest Charter, were issued as a compensation for a fifteenth by the whole kingdom; though the first appeared without any condition attached to it. In 1224, however, Louis, King of France, being willing to take advantage of Henry's minority, seized upon all the possessions of the English in that kingdom; under pretence that the young Sovereign, as Duke of Guienne, should have assisted at his Coronation. To enable him to recover those territories, Henry applied to his Parliament, and his request was answered by a demand for the renewal of the Charters, which was performed as it has been already related.



THE

CONFIRMATION CHARTER

OF

King Edward the First;

Granted November 5th, 1297,

IN THE TWENTY-FIFTH YEAR OF HIS REIGN.

Vide the preceding Essay, page 44.

TRANSLATED FROM THE ORIGINAL IN THE BRITISH MUSEUM.



EDWARD, by the Grace of God, King of England, Lord of Ireland, and Duke of Acquitaine, to all those whom these present letters shall hear or see;—Salutation. Know ye, that We, for the honour of God, and of the Holy Church, and for the benefit of our whole kingdom, have granted for us and our heirs.—(1.) That the Great Charter of Liberties, and the Charter of the Forests, the which were made by the common assent of all the king-

dom, in the time of King Henry our father; shall be held in all their parts, without any blemish. And we will that these same Charters under our seal, be sent to our Justices, as well to those of the Forest, as to others; and to all the Sheriffs of Counties, and to all our other ministers; and to all our cities throughout the land, together with our Writs, in the which shall be contained, that they shall make public the aforesaid Charters, and declare to the people, that we have granted to them to hold them in all their particulars: and to our Justiciaries, Sheriffs, Mayors, and other ministers who are of the law of this land under us, and from us having the care of it, the same Charters in every part shall be allowed in Pleas before them, and in their giving of judgment; that is to wit, the Great Charter of Liberties as the Common Law, and the Charter of the Forest for the Assizes of the Forests only, to the amendment of our subjects.

II. And we will, that if any judgment shall be given for the future, against the ordinances of the aforesaid Charters by the Justices, or by others our officers, who, contrary to the particulars of the Charters, do hold Pleas before them, it shall be done away with, and held by none.—(III.) And we will that these same Charters under our seal, be sent to the Cathedral churches throughout our kingdom, there to remain; and that they shall be twice in the year read

before the people.—(IV.) And that the Archbishops and Bishops shall pronounce the Sentence of Great Excommunication against all those who shall offend against the aforesaid Charters, by word, deed, or counsel, or in any point break or infringe them. And that these Sentences shall be denounced and published twice in the year by the aforesaid Prelates; and if the same Prelates, Bishops, or any of them, shall be remiss in the denunciation of the aforesaid, the Archbishops of Canterbury and York[a] for the time being, shall compel and distrain them, that the denunciation shall be made in the form aforesaid.—(V.) And forasmuch as that divers people of our realm are in fear, that the aids and tasks the which they have given to us before time, for our wars and other business, of their own grant and good will, in whatever way they were made, might turn into bondage to them and their heirs, because they might at another time be found on the rolls; and likewise for the taxes which have been taken throughout the realm by our officers in our name: We have granted for us and our heirs, that we shall not draw such aids, tasks, or taxes, into a custom for any thing that hath been done heretofore, be it by roll or in any other manner that can be found.

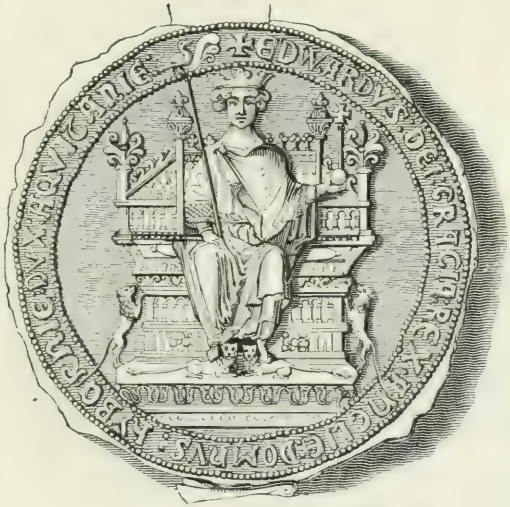
VI. And also we have granted for us and our

[a] The original instrument preserves the ancient Anglo-Saxon name of this city, namely, Everwyk.

heirs, as well to Archbishops, Bishops, Abbots, Priors, and to other persons of the Holy Church, as to Earls and Barons, and to all the Commonalty of the land; that for no business from henceforth, shall we take such manner of aids, tasks, and taxes of our kingdom, but by the common consent of all the realm, and for the common profit thereof; saving the ancient aids and taxes accustomed.

VII. And forasmuch as that all the greater part of the Commonalty of the kingdom find themselves hardly oppressed with the Maletout of wools, that is to wit, for every sack of wool a toll of forty shillings, and have prayed us that we would release them from it, We to their petition have fully released it, and have granted that we shall not take that, nor any other without their common consent and good will; saving to us and to our heirs the customs of wools, skins, and leathers, before granted by the Commonalty of the realm aforesaid. In witness of which things, we have caused these our letters to be made patent. Witness, our son Edward at London, the tenth day of October, in the twenty-fifth year of our reign.

And be it remembered, that this same Charter, in the same terms, word for word, was sealed in Flanders under the King's Great Seal; that is to say, at Ghent, the fifth day of November, in the twenty-fifth year of the reign of our aforesaid Lord the King, and sent into England.



THE LAST

CONFIRMATION

OF THE

CHARTERS OF LIBERTIES,

BY

King Edward the First;

Granted February 14th, 1300-1301,

IN THE TWENTY-NINTH YEAR OF HIS REIGN.

Vide the preceding Essay, page 47.

TRANSLATED FROM THE ORIGINAL IN THE BODLEIAN LIBRARY, AT OXFORD.



EDWARD, by the Grace of God, King of England, Lord of Ireland, and Duke of Acquitaine, to all to whom the present Letters shall come, Greeting. Know ye that we have granted and confirmed the Great Charter of the Liberties of England, with a Charter also for the Forests, of the Lord Henry, formerly King of England, our father, which we have renewed by our Charter; and we command, that those Charters in all their articles shall be firmly held and observed: We also will, and have granted

for us and our heirs, that if any statute shall be contrary to the said Charters, or to any article contained in the said Charters, the same shall be amended, or even annulled by the Common Council of our realm. In testimony of which thing we have caused these our letters to be made patent. Witness, myself, at Lincoln, the fourteenth day of February, in the twenty-ninth year of our reign.



EXPLANATORY NOTES

ON THE

Confirmations

OF THE

Charters of Liberties.



HE preceding Charters of Liberties appear to have been established by Four Instruments of Confirmation; independently of some other covenants, and several grants of Inspeximus and separate editions of the originals, which are fully described in the succeeding article of this volume. The *First* Confirmation Charter, properly so called, was issued by Henry III. at Westminster, January 28th, 1236-37, in the 21st year of his reign. It was in Latin, very short, and without reference to any particulars contained in either of the principal instruments: only stating, that by it the King had granted and confirmed to the Ecclesiastics, Nobles, and Freemen, of England, the liberties and free-customs contained in those Charters which had been issued to his faithful subjects during his minority, as well in Magna Charta, as in the Charta Foresta; commanding that they should be held and observed for ever, notwithstanding their having been granted when he was under age. This was probably inserted, because, as it will be remembered, he had in 1226, recalled the Forest Charters under this very pretence, vide the preceding Essay, page 39. The original of this Confirmation Charter, is yet preserved in the Bodleian Library at Oxford, with the Manuscripts of Richard Furney, Esq. No. 6, having the Great Seal of Henry III. attached to it. It measures 9½ inches, by 6¾, including the fold for the label. An ancient entry of it occurs in the

Cottonian Manuscripts, in a volume marked Galba, E IV. fol. 57;[a] beside which it is recorded on the Charter Roll[b] for the 21st year of this reign, membrane 7.

The next establishment of the Charters of Liberties, was by that solemn meeting in Westminster Hall, May 13th, 1253, vide the preceding Essay, pages 39-41, when the Papal Sentence of Excommunication upon those who infringed them, which had been more privately denounced in 1224 and 1237, was declared openly. This instrument, however, will be described in a subsequent page; the next regular Charta Confirmationis being issued at Westminster, March 14th, 1264-65, in the 49th year of Henry III. It is entered on the Charter Roll of the same date, membrane 4; in addition to which there are ancient copies of it preserved in a manuscript, in the Library of Corpus Christi College Cambridge, No. 70; and in the Cottonian MSS. in the volume marked Claudius, D II.[c] article 44. fol. 137 or 142 a, where it is called "the Charter of Henry III. which he made with the Barons, after the troubles in his kingdom." It was issued when King Henry and his son Edward, were in the custody of Simon de Montfort, Earl of Leicester, to procure the liberty of the Prince; who had also sealed with his father a contract in French for his delivery, dated at London on March 10th, four days before the

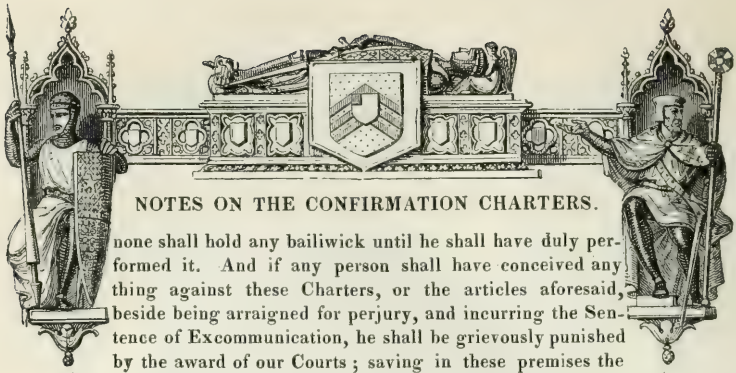
a The Manuscript referred to, is a Register of Henry de Estria, who was made Prior of Christ Church Canterbury, in 1285, and filled the office 47 years. It is a large folio volume, written on vellum, in the strong black character of the time of Edward II., with rubrics and blue paragraphs; and is probably of great authority.

b The Charter Rolls are a collection of records preserved in the Tower of London, extending from 1199, the 1st of John, to 1483, the end of the reign of Edward IV. Like all the other national Record Rolls, they are formed of several membranes, or skins of parchment sewed together, numbered from one end, and are referred to by naming each Roll according to its respective year of the King's reign, and the particular number of its membrane; to which is sometimes added *d*, or *dorso*, for entries made on the back, or *in cedula*, when it is written on a separate piece of parchment like a schedule, and attached to the Roll. They comprise royal grants for creation of Nobility, and of privileges to religious houses, cities, towns, bodies corporate, and private trading companies; of markets, fairs, free-warren, &c. &c.

c This volume consists of a very fine and authentic collection of ancient English Statutes and Charters, carefully written on vellum, in the court-hand of the 14th century, and beautifully illuminated. It has been used repeatedly for various readings of the Charters, &c. both by Sir W. Blackstone and the Commissioners of Records; and from the armorial ensigns with which it is profusely decorated, appears to have been executed for the family of Bruce, through which it descended to Sir Robert Cotton.

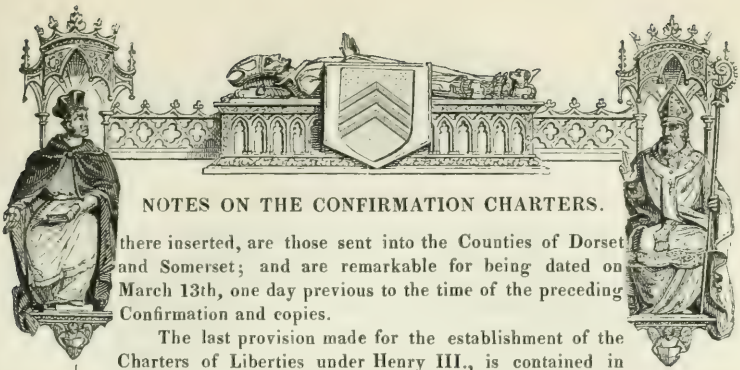
present one. The Confirmation Charter commences with stating, that Prince Edward, and Henry, the King's nephew, son of Frederick II. Emperor of Germany, had been hostages to the English Barons, and it recounts the reconciliation between the King and his Nobles, which had taken place in Parliament, on June 23rd, 1264, whereby a new form of government was established, until the treaty of May 15th, known by the name of the *Mise*, or taxation of Lewes, were carried into full effect. Its principal features were, that Henry should delegate the power of nominating his councillors to a committee of three persons, who were also to appoint his officers and governors of the royal castles; that no foreigner should be employed in the government; that all past offences should be mutually forgiven; and that the provisions of Oxford for reforming the nation, drawn up in June 1258, and established and amended in August 1263, should be confirmed and inviolably observed; together with the Charters of Liberties, and the ancient and laudable customs of the realm. These particulars have been related on account of their intimate connection with the present Charta Confirmationis, in which they are repeatedly referred to; and which states, that at the reconciliation of the King and his Barons, the former swore upon the holy Evangelists, not to prosecute any of those whom he had distrusted as his enemies under the Earls of Leicester and Gloucester, or other adherents of the Barons, with the citizens of London and the Cinque Ports. But the most remarkable part of this Confirmation, is a clause which was evidently formed upon part of the 61st Chapter of the Great Charter of King John; see pages 94-97, 321, 322; excepting, that it contains no provision for the safety of the royal family. It states, that if the King or his son should not keep the preceding conditions, or should damage, or cause to be damaged, any of the party which had been hostile to them in the preceding troubles, "it shall be lawful for all of our kingdom to rise against us, and to harass us and our possessions by all the means in their power; to which by our present precept we will oblige all and every one, notwithstanding the homage and fealty which they

have done to us: so that they observe us in nothing, but that all consider how to distress us, as if they held of us in nothing, until proper satisfaction be made for what has in that part been transgressed or offended in the appointed conditions, according to our aforesaid Ordinances and provisions, and the form of the oath, and when it hath been reformed, they shall behave to us as before." The actions of King John, and the subsequent history of the Baronial wars under Henry III., in both of which instances these provisions were disregarded when the Sovereign was set at liberty, form the best comments upon such dishonourable terms, so disloyally and compulsively extorted. "So impracticable is the attempt," says Blackstone, "to restrain even limited monarchs, by any express provisions which argue a degree of distrust inconsistent with monarchy itself." The Charter next proceeds to provide, that any person acting contrary to the foregoing ordinances, whether procured by the King or his son, or not, shall, upon conviction, lose all his inheritance both for himself and his heirs, be made guilty of felony, and, the Cottonian Manuscript adds, "shall be declared an outlaw."—"In addition to this," continues the instrument, "by the unanimous consent and will of Edward our son, our Prelates, Earls, Barons, and Commons of our Kingdom, it is with one accord provided that the ancient Charter of general Liberties, and the common Charter of the Forests of our kingdom, lately granted by us, (viz. the *third* Magna Charta, dated Feb. 11th, 1224-25, the 9th of Henry III.) against the violators of which, at our request, a Sentence of Excommunication was recently published, and specially confirmed by the Apostolic See, and also all the articles which by common consent were lately provided between us and our Nobles at Worcester, remaining in every County whither we have sent them under our seal, shall be perpetually and inviolably observed: to the observance of which we have bound ourselves by an oath on the holy Evangelists of God, before the Host;—and all the Justiciaries, Sheriffs, and Bailiffs whatsoever, of our kingdom, as well belonging to us as to others, we will shall be bound by a like oath, so that



none shall hold any bailiwick until he shall have duly performed it. And if any person shall have conceived any thing against these Charters, or the articles aforesaid, beside being arraigned for perjury, and incurring the Sentence of Excommunication, he shall be grievously punished by the award of our Courts; saving in these premises the clerical rights." After directing the Sheriff, &c. of York, to whom the copy of this Confirmation on the Charter Roll is addressed, to observe all the preceding, and cause the oaths to be taken, it is added that the aforesaid Ordinances and Charters, with the present Letters Patent under the King's seal, were sent into the County, that the memory of the matter might remain in safe keeping, under the custody of the most worthy of the Electors. It is then directed that the Ordinances, &c. shall for the future be published twice in each year, that none might pretend ignorance; once at the first County Court after Easter, which, in the year of this Confirmation, began the 5th of April, and at the first County Court after Michaelmas.

In addition to this Charter of Confirmation, it appears that the Great and Forest Charters were at the same time renewed and confirmed by instruments in the nature of Charters of Inspeximus; in which they were respectively recited at length, such deeds being transmitted to the several Counties. It is not known, however, if any of them have been preserved, or are now in existence; though the Manuscripts at Cambridge and in the Cottonian Library, already cited, contain the introductory and concluding forms of the Inspeximus of Magna Charta, as deposited in the County of Middlesex, dated like the preceding Confirmation, March 14th, 49th Henry III., 1264-65. It will be found in the latter authority at fol. 125 b., though the Charter of 1224-25, which it was to confirm, is not fully recited. The few words of Confirmation with the witnesses names then follow, the Inspeximus of the Forest Charter being altogether omitted; but in the Harleian Manuscript, No. 489, fol. 4 a—10 b, are ancient copies of both instruments; forming part of a collection of old English laws, &c. on vellum, in the hand-writing of the time of Edward II. The Charters



there inserted, are those sent into the Counties of Dorset and Somerset; and are remarkable for being dated on March 13th, one day previous to the time of the preceding Confirmation and copies.

The last provision made for the establishment of the Charters of Liberties under Henry III., is contained in Chapter V. of the Statute of Marlebridge, supposed to be Marlborough, in Wiltshire, at a Parliament held there November 18th, 1267, the 52nd year of his reign; when the principal instrument probably first received its name of Magna Charta, which it has ever since retained. "The Great Charter," says this Act, "shall be observed in all its articles, as well in such as appertain to the King as to others; and that shall be enquired into before the Justices in Eyre in their Circuits, and before the Sheriffs in their Counties, when it shall be required. And Writs shall be freely granted against those who offend, before the King, the Justices of the Bench, or the Justices in Eyre, when they come into these parts. Likewise the Charter of the Forest shall be observed in all its articles; and the offenders when they are convicted, shall be grievously punished by our Sovereign Lord the King, in the aforesaid manner." In commenting upon this passage, the principal points noticed by Sir Edward Coke are, that Magna Charta was actually a Statute of Parliament before it was established by this law, although some have thought otherwise; but as it had been passed for a fifteenth in the 9th year of Henry III., (see page 327,) the authority of the Parliament which imposed that levy, extended to the Charter itself in the names of the witnesses. He also remarks, however, that the words of the Statute of Marlebridge, "shall be observed in all its articles," is a passage of *establishment*, as being more secure than one of *confirmation;* that the free granting of writs against offenders, was to encourage the prosecution of such as infringed the Charters; that the expressions, "before the King, or the Justices of the Bench," signified the Courts of King's Bench and Common Pleas; and that one of the principal causes of the summoning of the Parliament, was the establishing of the Great and Forest Char-

ters; which, he adds, were never afterwards attempted to be impugned or questioned. The Statute of Marlebridge was written in Latin, it was the last legal act passed in the long reign of Henry III., and several ancient entries of it are extant, especially in the Red Book of the Exchequer at Westminster, the Close and Patent Rolls of Henry III., and the Cottonian Manuscript Claudius D II. already cited.

Before either the first Inspeximus or Confirmation of the Charters had been issued by Edward I., appeared a Statute in Latin, entitled, "The Form of Confirmation of Charters," which was importantly connected with both. It comprehended six sections, beside the opening, which stated that the King having been solicited to confirm the Charters which his subjects possessed from his ancestors, had agreed with his Council upon an established form for doing so. A renewal of a Charter of Liberties, therefore, probably at this time first received the name of Inspeximus, since it is stated, that they are to begin "'Edward, &c. *We have inspected* the Charter of gift, grant, or confirmation, which the Lord King Henry our father,' &c.—and the Charter to be confirmed shall be written word for word, without addition, change, transposition, or diminution. And at the end thus: 'We, therefore, the aforesaid grant ratifying and approving, for us and our heirs, &c. these being witnesses.'" Such, upon reference to the translations already given, will be found to have been nearly the form adopted seventeen years after, in the first Inspeximus of the Charters of Liberties, granted by Edward I.; the Act above cited being passed in 1285, the 13th of his reign, stat. 6; and his earliest renewal of Magna Charta appearing in his 25th year, 1297.

The first Confirmation Charter of this King was also issued at the same time, by his son on his behalf, in a Parliament which assembled at London on October 6th; the Writs of Summons to which expressly declared that it was principally to confirm the two Charters of Liberties, and to grant a security that the late levy of an eighth, which was in some points illegal, should not be made a precedent to the hurt of the kingdom. A Statute in the form of a Char-

ter, was then passed, which is usually called *Confirmatio Chartarum*, being dated at London, Oct. 10th, and witnessed by Prince Edward, who engaged to procure his father's ratification of his proceedings. This Confirmation is in French, and is recorded on the Statute Roll, for the 25th year of Edward I., membrane 38, preserved at the Tower of London. On Oct. 12th, the Great and Forest Charters were again recited and confirmed by grants of Inspeximus, also witnessed in the name of Prince Edward; and as soon as the Parliament was dismissed, the instruments were sent over to the King at Ghent, where, after some days deliberation, he sealed the Confirmation Charter of November 5th, 1297,—printed on pages 369-373, of the present volume,—as appears by the memorandum attached to the enrollment of it. The original instrument, however, without the concluding clause, is still preserved with the Cottonian Charters in the British Museum, marked vii. 9. It is written across the parchment, in the small court-hand of the time, and contains 16 lines: the seal is gone, and, though the contents are perfectly legible, the deed is very much shrivelled by the fire which took place at the Cottonian Library, in 1731; it now measures $16\frac{1}{4}$ inches by $6\frac{1}{4}$ including the fold for the label. From this original the preceding translation was made, and the copies were taken published by Sir W. Blackstone and the Record Commission. The French text was also printed by Lord Coke, and the following is an abstract of his Commentary upon its contents.

Firstly, then, it is to be considered as a Statute of Parliament drawn up in the form of a Royal Charter, according to the ancient English custom, interpreting the law as it existed when it was made. It is entitled in Latin, "the Confirmations of the Charters of Liberties of England and the Forest;" but as it enacts nothing which is not provided for in those instruments, it is also to be considered as an excellent interpretation of them. The causes for which it was granted, are the same as those declared in the commencement of Magna Charta, vide pages 62, 63, 160; and the Parliamentary authority by which the Charters of Liberties had been established, is expressed in CHAPTER I., see

page 369, by the words "common assent," or commons of all the kingdom, which could not be but by the assembled Parliament; for it is a law-maxim that every man in England is party to its acts, being present by his representatives. The publication of the Charters is next provided for; and the ancient custom in England before the invention of printing, was, that at the end of every session of Parliament, a transcript of all the acts which had been made in it, was sent to the Sheriff, together with the King's Writ, commanding him "that those Statutes, and all the articles contained in them, should be publicly proclaimed, and caused to be firmly held and observed in every place to which they were sent." They were therefore read in the County Court, vide Notes on the Great Charters, page 254, and then preserved there by the Sheriff, that whoever was desirous might read, and take copies of them. The Statutes of England passed in 1483, the first year of Richard III., and those made in the 1st and 2nd Parliaments of Henry VII., were originally printed by Caxton in two thin folio volumes without date; which practice was slightly continued by John Lettou, William Machlinia, and Wynkyn de Worde, and was at length effectually established by the numerous excellent productions of Richard Pynson, who was appointed King's Printer. The oldest of the printed laws of the kingdom now extant, and preserved in the Statute-books, is the Magna Charta of 1224-25, the 9th of Henry III., the acts before it being lost. It may be farther remarked in noticing this subject, that at present a Statute of Parliament requires no formal promulgation; but when it has passed in the ordinary manner, the parchment roll on which it is engrossed is laid up with the Records of the Realm; though it is usually printed, published, and sold at the King's press, at 3*d.* per sheet for public and local acts, and 1*s.* per sheet for private bills, being printed at the expence of the parties concerned: this custom commenced in the reign of Henry VII. In closing these observations upon the First Chapter of King Edward's Confirmation, the strong expression providing that all Judges should allow the Charters of Liberties for the law of the land, should not be un-

noticed. Lord Coke calls it "a clause worthy to be written in letters of gold." The SECOND CHAPTER, page 370, also rests upon and strengthens the declaration of the first; and provides that judgments pronounced against the Charters should be made void, and reversed by a Writ of Error.

CHAPTER III. Page 370.

Sir Edward Coke remarks, that this Section shews the care which was used to preserve the instruments now confirmed. The propriety of the manner of recording mentioned in the text, is at the present time particularly evident; since some of the finest originals of the ancient English Charters of Liberties now extant, have been preserved in the Archives of the Cathedrals and Religious Houses, to most of which attested copies appear to have been sent, according to the custom of registering records, introduced by the Anglo-Saxons. It was long before they used any sort of entries in rolls or books, and perhaps the earliest inserted in a volume, were notes or abstracts of their pleas or lawsuits, though they kept no regular account of their proceedings. It was usual, however, to draw up a summary statement of the case, as a certificate to be given to the successful party, at the close of which were added the names of the witnesses and the principal persons present at the trial. That this decree might be the better known and preserved as an important memorial, the owner usually had it copied into the Evangelisterium, Missal, or some other Monastic and sacred volume belonging to any Religious House in the vicinity, to give sanctity to it and protect it; whence possibly arose the custom not quite obsolete, of entering births, marriages, and deaths in a blank leaf of a Bible. In the course of time, however, not only judicial pleas, but other public acts of notoriety were recorded in these religious volumes; as conveyances of land, sales and manumissions of slaves, ordeals of persons accused of criminal actions, testamentary bequests, bargains and gifts of every sort, general and personal acquittances, the institutions of guilds and fraternities, &c. Such was the origin of the practice of depositing records in religious establishments, which was afterwards farther extended by placing

in them sealed copies of the original instruments. The order in the text for their being publicly read twice in the year, was perhaps as well grounded upon some ancient custom of declaring the law to the people who could not read; as intended to prevent any loss, forgetfulness, or destruction of the Charters themselves; as in the case of the Charter of Henry I.; vide the preceding Essay, page 10. It is, however, possible, that the practice originated in the frequent declaration of the Mosaical law to the Israelites.

CHAPTER IV. Page 371.

The singular subjection of the Ecclesiastical to the juridical government contained in this section, is observed by Lord Coke to be because the Sentence of Excommunication concerned temporal matters, and that therefore it could not be pronounced but by the authority of Parliament. The famous ceremony at which this Sentence was first openly declared, has been described in the preceding Essay, pages 39-41; and there are several authentic copies of it extant, both in the ancient English historians, and in the manuscript collections of Statutes in the Public Libraries. A transcript of this Sentence is also still preserved in the Archives of Wells Cathedral, with the labels and some fragments of the seals of the Archbishop and fourteen Bishops, still attached to it; and an abstract of it in the form of a Public Writ, sealed by the King, is entered on the Patent Roll of the 37th of Henry III., membrane 12 d. Perhaps the best copy is that contained in the Red Book of the Exchequer at Westminster, which was used by Sir William Blackstone, the Commissioners of Records, and for the ensuing translation; in which, however, the witnesses names are given at length.

"SENTENCE OF CURSE GIVEN BY THE BISHOPS AGAINST THE BREAKERS OF THE CHARTERS.

"The year of our Lord MCCLIII. the third of the Ides of May, (13th day,) in the Great Hall of the King at Westminster, in the presence and by the assent of the Lord Henry, by the grace of God King of England, and of the Lords Richard, Earl of Cornwall, his brother; Roger Bigod, Earl of Norfolk and Suffolk, Marshal of England; Humphrey Bohun, Earl of Hereford; Hugh de Vere, Earl of Oxford, John, Earl of Warren, and others of the chiefest of the realm of England; —

We, Boniface, by the mercy of God Archbishop of Canterbury, Primate of all England, Fulk Basset, of London, Hugh Northwold, of Ely, Robert Grostete, of Lincoln, Walter de Cantilupe, of Worcester, Walter de Suffield, of Norwich, Peter de Aquablanc, of Hereford, William of Salisbury, Walter de Kirkham, of Durham, Richard Blondy, of Exeter, Silvester de Everdon, of Carlisle, William Button, of Bath, Laurence of Rochester, and Thomas Wallensis of St. David's, Bishops; arrayed in Pontificals, with tapers burning, against the Breakers of the Liberties of the Church, and of the liberties or free-customs of the realm of England, and especially of those which are contained in the Charters of the common liberties of England, and Forest Charter,--have solemnly denounced the Sentence of Excommunication in this form. By the authority of God the Father Almighty, and of the Son, and of the Holy Ghost, and of the glorious Mother of God, and perpetual Virgin Mary; and of the blessed Apostles, Peter and Paul, and of all the Apostles; and of the blessed Thomas, Archbishop and Martyr, and of all the Martyrs of God; of the blessed Edward, King of England, and of all the Confessors and Virgins, and all the Saints of God; We Excommunicate and Anathematise, and sequester from the benefits of our Holy Mother the Church, all those that hereafter shall willingly and maliciously deprive or spoil the Church of her right. And all those who by any arts or craft do violate, break, diminish, or exchange, the Church's Liberties and free-customs contained in the Charters of common Liberties and of the Forest, granted by our Lord the King to the Archbishops, Bishops, and other Prelates of England; as well as to the Earls, Barons, Knights, and free-tenants whatsoever: and all that secretly or openly by deed, word, or counsel, do make Statutes, or observe them being made; or introduce customs, or observe them when they are brought in, against the said liberties, or any of them; the writers, law-makers, counsellors and executors of them, and all those who shall presume to judge according to them; all and every which persons before mentioned, that wittingly shall commit any thing of these premises,---let them well know, that by that act they incur the aforesaid Sentence. And for those who commit aught ignorantly, and be admonished, except they reform themselves within fifteen days after the time of the admonition, and make full satisfaction for what they have done, at the will of the Ordinary,--shall be from that time henceforth involved in the same Sentence. And with the same Sentence we burthen all those who shall presume to disturb the peace of our Sovereign Lord the King, and of the realm. For perpetual memorial of which thing, we have attached our seals to these presents."

CHAPTER V. Page 371.

It has been already stated that the Parliament at which this Confirmation was passed, was summoned partly to prevent an illegal aid from being established as a precedent; and the present Section provides, that no record of such subsidies should ever make them lawful. Of the nature of Aids and Taillages,—which latter term is expressed in this in-

strument by the old Norman word *Mises*, signifying, literally, expenses or charges, but here placed for tasks, taxes, &c.— of these levies some account has been given in the Notes on the Great Charters, pages 181-185. In the present instance it remains only to be observed, that in 1297, Humphrey de Bohun, Earl of Hereford and Essex, Lord High Constable, and Roger Bigod, Earl of Norfolk, and Marshal of England, previously to the issuing of this Confirmation, presented a petition to Edward I. on the behalf of the Commons, concerning the aids which had been granted, whereupon the King consented to the present provisions, vide the preceding Essay, page 44. The subject, however, was not entirely settled for nearly a century after the date of this Charter, in the reign of Henry VII.; during which time several other Acts of Parliament explained it, and provided no man should be charged to arm himself, or provide any armed men, but those who held by such services, excepting by common consent and Parliamentary grant: no man should be compelled to go to the King's wars, but upon sudden invasion: and that no man should be charged with any military payments for the King's army going out of England. These were only declarations of the ancient laws of England; and in 1413 and 1419, the 1st and 7th years of Henry V., in his wars with France, the Commons protested that they were not bound to maintain them in any foreign lands. Their protestations were entered on the Parliament Roll, where they yet remain, and accord with the declaration made in the text.

CHAPTER VI. Page 371.

The subject of Aids, &c. is continued in the present Section, which was inserted because the King in his recent tax of an eighth, levied upon it his Ecclesiastics as well as Secular subjects. Their claim of immunity, and subsequent proceedings, have been related in the former part of this volume, page 42; and for their resistance of the King, Sir Robert de Brabazon, Chief Justice of the King's Bench, declared openly that from thenceforth no justice should be done for them at their suit, though it should against them on the suit of any other. The present Confirmation, however,

satisfied all, for the Section not only provides that aids, &c. shall be levied "by the common consent of all the realm," but that they shall be employed for its common profit; excepting the three ancient feudal aids allowed of by Magna Charta, (Chapters xii., xv. pages 72-75, 181, 182,) and the old rights of reliefs, waifs, strays, possessions of felons and outlaws, (see page 213,) deodands, heriots, &c.

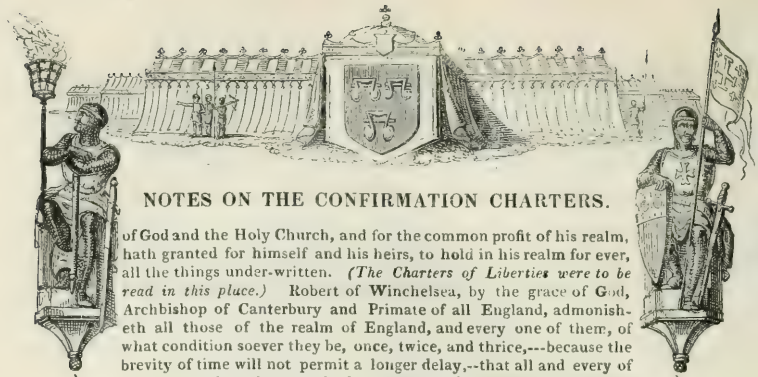
CHAPTER VII. Page 372.

The spirit of this Section, so far as it relates to illegal tolls has been explained in the Notes to the 30th Chapter of the Third Great Charter of Henry III., page 233, to which place Lord Coke also refers it. The custom of wools ,&c. for which there is a provision in the latter clause of this Chapter, he asserts to have been granted by Parliament to Edward I. in 1274-75, the 3rd of his reign, under the title of "a certain new custom." It amounted to a half mark, 6*s*. 8*d*., for every sack of wool weighing 26 stone; a half mark upon every 300 wool-fells, or undressed sheep-skins; a whole mark on every last of leather, &c. The great Commentator observes, however, that some considered these duties to be taken by the King in right of the Common Law, both of the English and strangers, under the name of Antiqua Custuma; and it is, perhaps, possible that the words cited from the record of Edward I., might refer to the revival of the tax, and not to the tax itself. In closing these remarks on the Confirmationes Chartarum, it should be observed, that the customs last mentioned are attributed to the Commonalty only; which has been explained to signify, that they form the greater part of a Parliament, that subsidies commence with them, and produce from them most benefit to the King, or that the word includes all the subjects of the realm, both Lords and Commons.

In 1297 the Confirmationes Chartarum were also guarded by another Ecclesiastical Sentence, of which an ancient copy is contained in one of the Harleian Manuscripts, No. 667, fol. 14. The form of it is as follows:

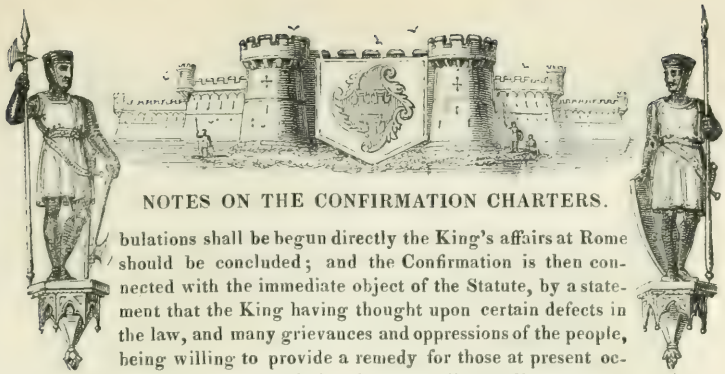
"THE SENTENCE OF THE CLERGY GIVEN ON THE CONFIRMATION OF THE CHARTERS.

"In the name of the Father, and of the Son, and of the Holy Ghost: Amen. Whereas our Sovereign Lord the King, to the honour



of God and the Holy Church, and for the common profit of his realm, hath granted for himself and his heirs, to hold in his realm for ever, all the things under-written. *(The Charters of Liberties were to be read in this place.)* Robert of Winchelsea, by the grace of God, Archbishop of Canterbury and Primate of all England, admonisheth all those of the realm of England, and every one of them, of what condition soever they be, once, twice, and thrice,---because the brevity of time will not permit a longer delay,--that all and every of them as much as in them is, do support and maintain those things granted by our Lord the King aforesaid, in all their particulars. And that they, nor none of them, do in no point or time resist or break them; nor procure, nor counsel it, nor in any manner consent to controvert them, neither by word or deed, or any pretence or colour. We the aforesaid Robert, Archbishop of Canterbury and Primate of all England, by our authority expressed in this writing, do Excommunicate such, and separate them from the body of our Lord Jesus Christ, and all the company of Heaven, and all the Sacraments of the Holy Church. So be it! so be it! Amen."

The ancient Act of Parliament, which is known by the name of "The Statute of Fines levied," made in the year 1299, the 27th of Edward I., was also in part a general Confirmation of the Charters of Liberties, as well as an Inspeximus of a great portion of the Charta Foresta; though, strictly speaking, they formed no part of it, and are omitted in some of the printed editions of it. In the Cottonian Charters, however, marked vii. 11. is a contemporary exemplification of this Statute, under the Great Seal, directed to the Sheriffs of London, and marked as having been examined with the City Records. The opening states, that before the King went into Flanders, to reward his subjects for their large contributions both in peace and war, he regranted the Great and Forest Charters, and caused his concessions to be declared by the Archbishop of Canterbury at Westminster; renewing his ordinance for their general observance under seal at Odimere. The wars having occupied the King until the present time, prevented him from knowing the state of his realm; but his intention being still unchanged, for the honour of God and the Church, and the good of all the realm, the Great and Forest Charters are commanded to be observed; the latter being recited from Chapter vi. to the beginning of Chapter xvi. A clause then follows, directing that its ordinances shall be established, with a provision that the expected Forest Peram-



bulations shall be begun directly the King's affairs at Rome should be concluded; and the Confirmation is then connected with the immediate object of the Statute, by a statement that the King having thought upon certain defects in the law, and many grievances and oppressions of the people, being willing to provide a remedy for those at present occurring, establishes it by the succeeding ordinances. It may, perhaps, be proper to notice that the Statute of Fines levied, was intended to provide that they should be a security, and *an end*, as the word implied, of all matters for which they were paid in the King's Court.

The Statute entitled, "Articuli super Chartas," or the Articles upon the Charters, was the next instrument by which they may be said to have been confirmed, though it can scarcely be denominated a Confirmation Charter. It has been already noticed in the preceding Essay, page 46, and it was issued from a Parliament which met at London, on March 16th, 1299-1300, the 28th year of Edward I. One cause of it being made is stated by Lord Coke to have been the provision of taking the ancient feudal aids, &c. in Chapter vi. of the Confirmationes Chartarum, already given and explained on pages 372, 389; under colour of which the King's officers and ministers evaded the true law when the Parliament was dismissed. Upon which several of the Barons petitioned the King again to confirm the Charters, but when he would have inserted a clause saving the right of the crown, the Lords protested against it, and desired an absolute renewal of the Charter of Henry III., which he at length granted in the Act variously entitled, "the Explanations upon the Charters:"—"the New Articles upon the Charters:" and, more commonly, "the Articles upon the Charters." The ordinances contained in it occupy twenty Chapters written in Norman French; and it opens by declaring that the Charters of Liberties were not observed, notwithstanding the several confirmations of them, which is attributed to there being no certain penalties attached to their violation; they are, therefore, re-established by this Act, and the following provisions made for their protection and support. Copies of them under the King's Seal were

to be sent to every Sheriff in England, to be read four times yearly to the people in full County-Court; at the first meetings after the feasts of St. Michael, Christmas, Easter, and St. John the Baptist. For the punishing of offenders, the Commonalty was to elect three able men in every County-Court; Knights, or other lawful, wise, and well disposed persons, who were to be sworn as Justices under the King's Great Seal; to hear and determine, without any other Writ than their Commission, such complaints as should be made of those who offended in any point against the Charters, within the County, as well within franchises as without, and as well of the King's officers out of their places as of others. They were to hear such complaints from day to day, without admitting any of those delays which were allowed by the Common Law; and to punish all those who were attainted of any trespass against the Charters, by imprisonment, ransom, or amerciament, according to the trespass. The Statute expressly declares, that this special proceeding shall be only in cases where there was no remedy by the Common Law; and that if the three Commissioners could not attend, two should be sufficient. Sir Edward Coke, observes, that out of the appointment of these persons, arose that of the Justices of *Trail báton;* so called from their rapid proceedings which "were as speedy and ready as one might *draw a staff*." The King's Sheriffs and Bailiffs were to be attendant on these Justices.

Like the *Statutum de Finibus levatis*, the present Act now turns from establishing the Charters of Liberties, and states, that for the voluntary aids and service of his subjects, the King had granted in it other articles for their benefit and amendment of the law. Some of these were intended to remedy certain defects in the Great Charter, as Chapter II. for the regulation of Purveyance, vide Chapters XXVIII. &c. pages 78, 79, 211-213: Chapters IV. V. on holding of Courts of Common Pleas, &c. Chapter XVII. pages 74, 75, 197: Chapter XII. on distraining for debts of the Crown, Chapter IX. pages 70, 71, 174: Chapter XVIII. for the protection of the King's ward lands, Chapters IV. V. pages 66-69, 165-167. All the Chapters, however, of the

NOTES ON THE CONFIRMATION CHARTERS.

Articuli super Chartas, bear either obliquely or directly upon the ordinances of Magna Charta; excepting the last, which concerns the English Goldsmiths' and workers in metals.

The last actual Confirmation Charter which remains to be noticed, was that dated at Lincoln, February 14th, 1300-1301, in the 29th year of Edward I.

Such were some of the Acts and Confirmations, by which these instruments were finally established; from which, and from the other contents of this volume, it will be seen that the only first stone of their foundation was laid by King John, that Edward I. became truly famous for his grants of Inspeximus and Confirmation, as well as for his Statutes explaining and protecting them; but that the most copious and valuable text of Magna Charta, as well as the very first Charter of the Forests, appeared under

THE GREAT SEAL OF HENRY THE THIRD.



HISTORICAL AND DESCRIPTIVE ACCOUNT

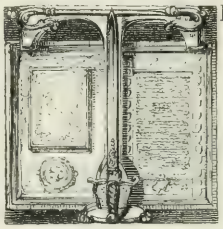
OF THE PRINCIPAL

MANUSCRIPT AND PRINTED COPIES

OF THE

English Charters of Liberties,

AND OTHER INSTRUMENTS CONNECTED WITH THEM.



THE Great Charter as granted by King John in 1215, though far more popular in its name, is actually less familiar in its contents, than the same instrument as repeatedly altered and confirmed by Henry III. and Edward I.; which is usually prefixed to the various editions of the English Statutes. Those collections which include the national laws previously to 1327, the 1st year of Edward III., contain the very full copies of the Great and Forest Charters of the 9th of Henry III., Feb. 11th, 1224-25; printed either from the Inspeximus Charter of Oct. 12th, 1298, the 25th of Edward I., as entered upon the Statute Roll, which has been already inserted in the present volume, pages 145-158,—or from his second, and last Inspeximus, dated March 28th, 1300, in the 28th year of his reign. The former is the first appearance of these Charters upon the Statute Rolls,[a] and was first pub-

[a] These registers are records of Chancery of the highest authority, preserved in the Tower of London, on which were entered the

lished by Serjeant William Hawkins, in his edition of the English Statutes, Lond. 1735, fol. 6 vols. It was not, however, until the publication of the "Statutes of the Realm," by the Commissioners of the Records of England, that they were preceded by an entire series of the Charters of Liberties, printed from the ancient originals themselves: to effect which, searches were made through the kingdom in the summer of 1806, by two of the Sub-commissioners, for ancient Charters, &c. not found upon the Statute Rolls; wherever such instruments were supposed to be preserved, according to the Record Report of 1800. In treating of these originals, therefore, it is not possible to proceed with greater accuracy or more minute investigation, than are displayed in the accounts of these researches, and those of Sir William Blackstone; and the principal of the following notices have in consequence been compiled from those authentic sources: the intent of the present article being to give some

several Statutes when drawn up in form, for the purpose of being proclaimed and published. The earliest Statutes now inserted in collections, are those of Henry III., but no Parliamentary Record of them exists before those of the 6th of Edward I., 1278, the Statute of Gloucester, which commences the Rolls. They extend from this period to 1468, the 8th of Edward IV., inclusive; though there is an interval after 1429-30 to 1444-45, from the 8th to the 23rd year of Henry VI., inclusive. They consist of six separate Rolls arranged in regular series, each Roll consisting of several membranes, or skins of parchment tacked together, by the number of which, and the year of the Roll, the record is cited. Though the Roll of 1468 be the last now known to be extant, there is evidence that later ones did exist, and that this method of recording the Statutes ceased with the Parliamentary Session of 1488-89, the 4th of Henry VII., no notice of any later one having been discovered. In the next Session, 1491-92, the 7th of Henry VII., public acts were printed from the several bills passed in Parliament, and not according to the ancient manner, as part of one Statute drawn into a general form. The present custom is, after all the Public-general Acts of a Session have received the Royal Assent, a transcript of the whole, engrossed on parchment, and signed and certified by the Clerk of Parliament, is sent to the Rolls Chapel, where it is deposited and arranged with the other Records.

account of the whole series of the English Charters of Liberties, which are now extant in any form; including those granted both before and after the time of King John, which have been only slightly referred to in the preceding pages. Previously to commencing, however, it will be proper to give a distinct notion of those ancient English laws,[a] the observance of which they were principally intended to restore.

This judicial code, then, consisted of that collection which had probably been commenced by Ælfred, continued by Canute and Edgar, and completed and established by Edward the Confessor, upon whom they have ever since conferred the character of an eminent legislator. When the Danes were first suppressed by Ælfred, about A.D. 877, or 890, that part of England in which they settled, (Northumberland,) was governed by a peculiar law called Dane-Lage: whilst the Sovereign compiled another code, entitled West-Saxon-Lage, for the province of Wessex; and the local constitutions of the Kingdom of Mercia were observed in the Counties nearest to Wales, and called Mercen-Lage. These systems, then, being in use in different parts of England in the reign of Edgar, about A.D. 966, he publicly declared to the Witenagemote at York, his design of forming them into one body common to all England. "It is my will," said he, "that the Danes select for themselves such laws as are best adapted to their particular circumstances; and that the English observe the Statutes, which I and my councillors have added to the ancient dooms." The Statutes thus established, were confirmed at Oxford by Canute, when he persuaded the English and Danes to enter into a mutual agreement of reconciliation and

[a] The British Laws are supposed to have been first translated into Saxon about A.D. 590, and to have been first published about the year 610 under Æthelbert.

friendship; but in 1015 a new collection of Laws or Constitutions was drawn up in a national assembly at Winchester, which commanded the faithful administration of justice blended with mercy; forbad the selling of christian slaves abroad; denounced Paganism in witchcraft; confirmed the three kinds of English law; and relieved some of the feudal services, which were then on the increase throughout Europe. The fortunate situation in which Edward the Confessor was placed, between the Danish and Norman invasions, and his revival of the Anglo-Saxon judicature, about A. D. 1065, have caused his character to be regarded with great partiality, and the legal code which he only completed, to be called "the Laws of Edward." The genuine book of these laws does not exist, though a spurious series has been printed with his name; but they are said to have consisted of two principal divisions, one containing the civil and the other the criminal ordinances, by which were established a great part of the ancient customs for the discovery of murder, &c. It was, however, the first of these which the English were most desirous of having restored, as it secured their estates by the old tenures of *Bocland* and *Socland*. The former of these expressions literally signifies, Book-land, or land held by book, or charter in writing; being free and hereditary property, which might be disposed of by the owner, though held under a superior lord. Estates of this kind were possessed by the Nobles and principal persons of the nation; but the tenure of Socland was most common with those of a lower class, being held by payment of an annual rent, with the addition of some personal service from the tenant. Vide the account of Socage in the Notes to the Great Charter, page 219. The most ancient series of English Laws now extant, are those of King Æthelbert, who reigned

from A.D. 561 to 636, which are also said to be the oldest in modern Europe; but all the preceding collections of Statutes may be consulted in Dr. Wilkins's *Leges Anglo-Saxonicæ*. Those attributed to the Confessor are divided into thirty-nine Chapters, and are entitled "the Laws of the good King Edward, which William the Bastard afterwards confirmed." Such were the ancient English ordinances which the Charters of Liberties were intended to secure.

It does not appear that there was any separate Charter, properly so called, issued for the restoration of this Common Law of England, until the famous one granted by Henry I.; which is said to have been the foundation for all that succeeded. That which is sometimes attributed to WILLIAM I., is only part of his collection of the Laws of Edward the Confessor, with his own alterations, contained in seventeen Chapters, with four additional relating to Pleas of Courts, which he ordered to be observed throughout the realm. They are, however, drawn up in the form of a Charter in Latin, and are addressed by the King "to all his men in France and England," to which latter, section xiii, confirms the laws of Edward the Confessor. In the procuring of these concessions from William, however, the conduct of both parties greatly resembled that of the King and his Barons concerning Magna Charta, nearly a century and a half afterwards: and a short account of the proceedings for establishing the ancient English laws, will, perhaps, be the best method of carrying on the present narrative until the appearance of the first great Charter.

William's dispossessions of the English landholders, and his oppressions of the Clergy, produced a revolt so early as 1069-70, the fourth year of his reign; when Frederick, Abbot of St. Alban's, brought forward Edgar Atheling of the Saxon line, whom the insur-

gents proclaimed King. Alarmed at this, William consulted Lanfranc, Archbishop of Canterbury, who advised him to treat the English with more moderation; and an interview at length taking place between the two parties at Berkhamstead in Hertfordshire, he swore upon the Holy Evangelists and reliques of St. Alban's Abbey, that "he would observe the good, approved, and ancient laws of the kingdom, which the holy and pious Kings, his predecessors, and chiefly King Edward, had ordained." To this he was also entreated by the council of his Barons, who acquainted him with some part of the Saxon judicature; upon which he issued writs, directing that twelve wise and noble Saxons in every County, should enquire and certify what the ancient laws really were. Being sworn that they should neither add nor diminish, they commenced with the rights of the Church, and drew up a series of ordinances preserved by Roger de Hoveden; of which Mr. Tyrrel observes, that though they may be genuine in the most material points, they have yet received many later additions by some copyists; since two ancient manuscripts of the historian in the Cottonian Library and at Lambeth, are without several of the additions in the printed copy. The inclination of William was principally towards the Danish laws, already stated to have been observed in Norfolk, Suffolk, Cambridgeshire, and Deïra, or Northumberland, where the greatest part of the Danes and Norwegians had been established. His own ancestors, and most of the Norman Barons, had originally come from Norway, and he was therefore desirous of establishing their customs throughout the whole of this kingdom. When the English Barons, who had acquainted him with the Saxon laws, heard of it, they were greatly alarmed, especially at those ordinances concerning fines and forfeitures; and they besought the King not

to impose them. Upon his appearing reluctant to comply with their wishes, they conjured him "by the soul of King Edward, who had bequeathed him the kingdom, and whose laws these were," not to establish any others. To this he at length consented, and in a general council ordained that the Laws of the Confessor, with such alterations and additions as he himself had made in them, should be observed in all things. He soon after, however, not only broke this covenant, but was also revenged on those who led him to conclude it; continuing to dispossess the English and enrich the Normans: upon which many of his subjects fled to Denmark and others into Norway.

On the decease of this King, September 9th, 1087, though the friends of WILLIAM RUFUS promised to the people of England, that he would govern them in a perfectly different manner, and abolish several severe Forest laws, if he were nominated to the crown in preference to his brother Robert,—yet when Archbishop Lanfranc recalled this to his recollection, he only replied, "who is he that can perform all he promises?" and left him out of favour for the rest of his life. In fact, this Sovereign extended the Forest laws; and it has been supposed that many of the oppressions attributed to William I., were rather introduced by his son. It appears, therefore, that neither a Charter of Liberties, nor any amendment of the law was established by this Monarch.

About the year 1100 in the next reign, was published the celebrated Charter of HENRY I.; who, on ascending the throne, proceeded as if he wished to efface the actions of his ancestors from the memory of the people. He first reformed several evil practices about his own court, and then issued the First Charter of Liberties. He also abolished the Couvre-feu; for though it is mentioned in the English laws for a full

century afterwards, yet it is rather as a known time of night, than as an existing custom. There is extant a collection of laws bearing his name, consisting partly of those of the Confessor, with great additions and alterations of his own; and chiefly calculated for regulating the County Courts. It also contains some directions as to crimes and their penalties, theft being made capital in this reign; and some ordinances concerning estates and their descent. The Saxon laws distributed them equally to all the sons, which is one of the features of the ancient custom of Gavel-kind, and not yet entirely obsolete. The feudal Normans gave the ancestor's inheritance to the eldest son only; but Henry directed that he should have the principal estate, the remaining lands being equally divided. Such were some of the early juridical improvements of this Sovereign; but it appears from history that prosperity in some degree changed his disposition concerning his own Charter, and that after his victories in France, in the year 1107 he became equally arrogant to his nobles and his subjects. Of this Charter, or Institutions of Laws of Henry I., the text appears now to be preserved only in some ancient manuscript collections of Charters; especially in that most authentic record entitled the *Red Book of the Exchequer* at Westminster, which is supposed to have been written about 1246, in the time of Henry III.; and in a Chartulary at Rochester, called the *Textus Roffensis*, compiled by Ernulphus, Bishop of that See, between 1116 and 1125. From these sources were printed the copies of King Henry's Charters, published by Sir William Blackstone and the Commissioners of the Records of the Realm; as well as the following translation, which is inserted to furnish the means of comparing it with the Magna Charta of King John. It will also be found published in the *Historia Major* of

Matthew Paris, the collections of ancient English laws, by Lambard and Wilkins, the life of King Stephen, by Richard of Hexham, and the Histories of England, by Dr. Brady, Mr. Tyrrell, and M. Rapin. In several of these copies, the opening and conclusion of the Charter are materially different, some commencing in the usual form of a writ to the Sheriff of the County, and others like a history, but the body of the instrument is in general the same. The reader will observe that the ensuing translation is divided into sections by Roman numerals, to which are attached Arabic figures referring to the parallel chapters in King John's grant, contained on pages 62-101.

"THE INSTITUTIONS OF KING HENRY.

"In the year of our Lord's Incarnation M. C. I., Henry, the son of King William, after the death of his brother William, by the Grace of God, King of the English, to all his faithful subjects, Greeting. Know ye, that because through the mercy of God and the Common Council of the Barons of all England, I was crowned King of the same, and because the kingdom hath been oppressed by unjust exactions,—for the honour of God, and the love which I have towards you all, (I. 1. pages 64, 65, 160, 161.) I have firstly set at liberty the Holy Church of God, so that I will neither sell, nor let out to farm, (see pages 167, 168,) nor upon the death of any Archbishop, or Bishop, or Abbot, will I take any thing from the lordship of the Church or its tenants until a successor shall have been admitted to it.—(II.) And I also take away all evil customs with which the kingdom of England has been unjustly oppressed, and which are here in part set down.—(III. 2. pages 66, 67, 163, 164.) If any of my Earls, or Barons, or others who hold of me, shall die, his heir shall not redeem the estate as he was wont to do in the time of my brother; but shall relieve it by a just and lawful relief.—(IV. 60. pages 92, 93.) In like manner shall the tenants of my Barons relieve their lands of their Lords by a just and lawful relief.—(V.) And if any of my Barons or other tenants, will give his daughter

sister, niece, or kinswoman in marriage, he shall treat with me about it; but I will neither take any thing of his for that license, nor will I prevent him giving her in marriage unless he be willing to join her to my enemies.—(VI.) And if upon the death of a Baron, or other of my tenants, there remain a daughter and heir, I will give her in marriage, together with her lands by the counsel of my Barons.—(VII. 7, 8. pages 68, 69, 172, 173.) And upon the death of a man, if his wife be left *without* children, she shall have her dower and marriage-portion; and I will not give her again in marriage excepting by her own consent.—(VIII. *as above.*) But if the wife be left *with* children, she shall then have her dower and marriage-portion whilst she lawfully preserves her body; and I will not dispose of her in marriage, but according to her own will.—(IX. 4, 5, 6. pages 66-69, 165-167.) And of the lands and children, there should be appointed guardians, being either the wife or some near kinsman, who ought to be just.—(X. 60. pages 92, 93.) And I also command that my Barons conduct themselves in like manner towards the sons, daughters, and wives, of their tenants.—(XI.) The common mintage of money which was accustomed to be taken in cities and counties, though not paid in the time of King Edward, I do wholly forbid to be taken for the future.—(XII.) If any coiner or other person shall be taken with false money,[a] due justice shall be done upon him.—(XIII.) All pleas and debts which were due to my brother, I forgive, excepting my just farms; and excepting those things which were covenanted for concerning the inheritance of others, or for those which properly concerned other men.—(XIV.) And if any have engaged any thing for his own inheritance, that I forgive; with all reliefs which were agreed upon for lawful inheritances.—(XV.) And if any of my Barons or tenants lie sick, and he will give, or designs to bequeath his money, I grant that it shall be disposed of accordingly.—(XVI. 27. pages 78, 79, 208.) But if, being prevented by

[a] Perhaps this passage refers to a law of Æthelstan, that if a coiner were found guilty of fraud, his hand was to be cut off and fastened to the mint-smithery.

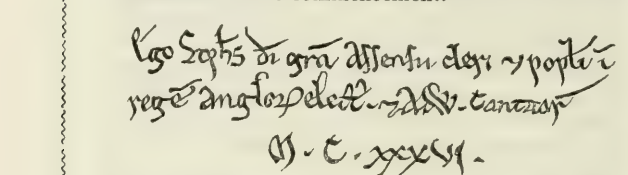
war or sickness, he should neither give nor dispose of his money, his wife, children, or relations, and his lawful tenants, shall divide it between them for the good of his soul, as it shall seem best to them.—(XVII.) If any *(of my Barons or tenants)* shall forfeit, he shall not give a pledge in forbearance of the fine, as was done in the time of my father and brother, excepting according to the manner of the fine: so that it shall be satisfied as it was wont to be before the time of my father, in the time of my other ancestors. But if he be convicted of perfidy or any other wickedness, he shall make a due satisfaction for it.—(XVIII.) Also I pardon all murders, from the day in which I was crowned King: and those which shall hereafter be committed shall have satisfaction according to the laws of King Edward.—(XIX.) I have, by the Common Council of my Barons, retained in my hands all Forests in the same manner as they were held by my father.—(XX.) I also grant of my own free-will to Knights who defend their lands by their habergeons, *(that is to say, Tenants by Military Service,)* that their demesne lands and carriages shall be free from all guilds and payments to works: (*see Notes on the Great Charters, page* 213,) so that being so greatly relieved, they may the more easily provide themselves with horses and arms, better fitting my service and the defence of my kingdom.—(XXI.) I also establish firm peace in the whole of my realm, and command it to be held for the future.—(XXII.) I also restore to you the law of King Edward, with those amendments with which my father improved it by the counsel of his Barons.—(XXIII.) If any man hath taken any thing of mine, or the goods of another, since the death of King William, my brother, the whole shall speedily be restored without any other satisfaction: but if he shall retain any thing, he shall pay a heavy recompense for it.—Witnessed by Maurice, Bishop of London, and Bishop Gundulf, and William, Bishop elect of Winchester; and Earl Henry, Earl Simon, Walter Gifford, Robert de Montfort, Roger Bigot, and Henry de Port; at London, when I was crowned."

STEPHEN, Earl of Blois, succeeded to the throne

on Monday, December 2nd, 1135; and, like the former Sovereigns, seemed to consider that the best method of securing the kingdom, was by promising the Barons greater privileges than they had enjoyed under the three preceding reigns. He was crowned at Westminster by William Corbois, Archbishop of Canterbury, on St. Stephen's day, Thursday, December 26th in the same year; when, as William of Malmesbury relates, the terms of his Coronation Oath made it almost a Charter of Liberties. The import of it was, that he would within such a time fill all the vacant Bishoprics, leaving their temporal possessions in the charge of some ecclesiastic until they were presented: that he would not seize upon the woods of any clerk, or layman, upon slight pretences, as his predecessor had done, but be content with the Forests which belonged to William I. and II., and make restitution of such as had been usurped by Henry: and lastly, that he would abolish Dane-gelt, a tax which was insupportable to the nation, and taken away by Edward the Confessor, though restored by the Normans. The Bishops, on their part, took an oath to the King, which was no less extraordinary than his own; for they swore allegiance to him no longer than he should maintain the privileges of the Church. The Barons, also, seem to have proceeded with the same caution; since Robert the Consul, Earl of Gloucester, and natural son of Henry I., sware fealty if Stephen would preserve his estates, &c. entire, and observe the covenant made with the Barons. The King promised whatever was required of him, as well as to secure the liberties of the Church and nation by a proper instrument; which he performed by two Charters yet extant, issued in 1136, the first year of his reign.

One of these interesting reliques of history, has been discovered through the meritorious and successful

exertions of the Record Commission; preserved in the archives of Exeter Cathedral, with part of the Great Seal still remaining attached to it. The parchment containing it, measures $10\frac{6}{8}$ inches, by $4\frac{7}{8}$, the seal is attached to a thin cord, and the writing is comprised in nineteen lines of a small kind of Norman running-hand with numerous contractions, the following being a fac-simile of the commencement.

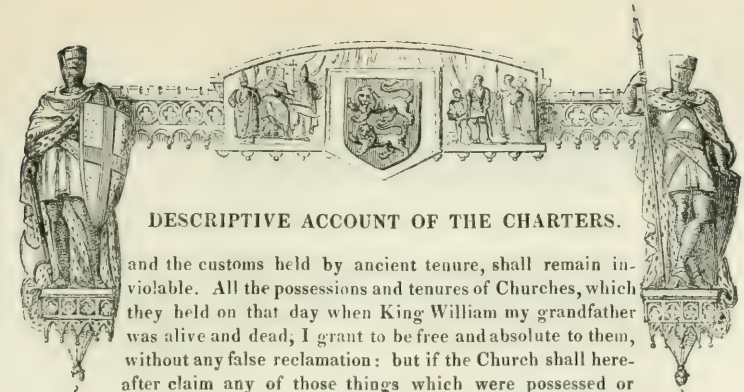


Ego Steph*anus* dei g*rati*a assensu cleri & pop*u*li i*n*—
rege*m* Anglor*um* elect*us*. & a W. Cantaur*iensis*—
M.C.XXXVj.

This Charter principally regards the ecclesiastical liberties of England, and the following is a translation of its contents.

"THE CHARTER OF KING STEPHEN CONCERNING THE LIBERTIES OF THE CHURCH AND KINGDOM OF ENGLAND.

"I STEPHEN, by the grace of God, and by consent of the clergy and people, King of England, and consecrated by William, Archbishop of Canterbury, and Legate of the Holy Roman Church; and afterwards confirmed by Innocent, Pontiff of the Holy Roman See;—do hereby grant, in respect and love of God, that the Holy Church shall be free; and I confirm all reverence due to it. I promise to act nothing in the Church, nor in ecclesiastical affairs, simoniacally, nor will I permit it to be done. I defend and confirm that the power, justice, and dignities, of ecclesiastical persons and all clerks, and the distribution of their goods, shall be in the hands of the Bishops. I grant and establish, that the dignities of Churches confirmed by their privileges



and the customs held by ancient tenure, shall remain inviolable. All the possessions and tenures of Churches, which they held on that day when King William my grandfather was alive and dead, I grant to be free and absolute to them, without any false reclamation: but if the Church shall hereafter claim any of those things which were possessed or enjoyed before the death of the King, and which it now may want, I reserve that to my indulgence and dispensation, to be either discussed or restored. But whatsoever hath been bestowed upon it since the King's death, either by the liberality of the King, or the gift of great persons, or the oblation, purchase, or any exchange, of faithful men, I confirm, and shall be conferred upon them. I promise to preserve peace and justice in all things to the utmost of my power. The Forests which William, my grandfather, and William, my uncle, have made and held, I reserve to myself: but all the rest, which King Henry hath superadded, I restore, and grant, quit and discharged to the churches and the kingdom. If any Bishop, or Abbot, or other ecclesiastical person, shall reasonably distribute his goods before his death, or appoint them to be so distributed, I grant that it shall remain firm: but if he be prevented by death, distribution of them shall be made by consent of his church for the good of his soul. Whilst Episcopal Sees shall remain vacant of pastors, both they and all their possessions shall be committed to the power and keeping of clerks, or other honest men of the same church, until a pastor shall be canonically substituted. All exactions, injustice, and miskennings, wickedly introduced either by Sheriffs, or by any others, I totally abolish. The good and ancient laws and just customs in murders, pleas, and other causes, I will observe, and do hereby establish and command to be observed. But all this I grant, saving my royalty and just dignity. Witnesses: William, Archbishop of Canterbury, Hugh, Bishop of Rouen, Henry (de Blois,) Bishop of Winchester, Roger, Bishop of Salisbury, Alexander, Bishop of Lincoln, Nigel, Bishop of Ely, Everard, Bishop of Norwich, Simon, Bishop of Worcester, Bernard, Bishop of St. David's, Audoen, Bishop of Evreux, Richard, Bishop of Avranches, Robert (de

Bethun,) Bishop of Hereford, Æthelwulf, Bishop of Carlisle, and Roger, the Chancellor, and Henry, the King's nephew, and Robert, (Consul,) Earl of Gloucester, William, Earl of Warren, Ranulph, (Randle de Gernons,) Earl of Chester, Robert, (Roger de Newburgh,) Earl of Warwick, Robert de Vere, and Milo de Gloucester, Bryan Fitz-Earl, Robert D'Oyly, the Constable, William Martell, Hugh Bigod, Humphrey de Bohun, Simon de Beauchamp the Sewer, William de Albini, Eudonius Martell the Butler, Robert de Ferrers, William Penr', of Nottingham, Simon de Saintliz, William de Albain, Payne Fitz-John, Hamon de St. Clare, and Ilbert de Lacy. At Oxford in the year from the Incarnation of our Lord, 1136, namely the first of my reign."

On the number of witnesses names contained in this instrument, William of Malmesbury, a contemporary historian remarks, that it would be wearisome to repeat them because they were so many; and because the King had so violated every thing therein promised; as if to shew the kingdom, that he had sworn only to break his oath to the ecclesiastics. He adds, however, in palliation, that his doing so was less to be attributed to himself, than to those evil counsellors, who insinuated to him that he had no occasion to want money, whilst the monasteries possessed such treasures. The first infringement of the King's contract, is stated by the same historian to have been his holding of Forest-pleas, concerning his Barons hunting in their own woods: and on the death of the Archbishop of Canterbury seizing upon his property and the revenues of the see, as the right of the crown. This conduct occasioned a division in the kingdom; the Barons revolted from their allegiance, fortified their castles to oppose their monarch, and the whole realm was involved in the distractions of a civil war for the remainder of his reign. The other Charter of Liberties granted by this Sovereign, was a short general one for the whole realm; it was also written in

Latin, without date, and is preserved in an ancient entry in the Cottonian Manuscript, Claudius D. II., Art. 25, fol. 75, or 68 b, whence the following translation has been made.

"STEPHEN, by the grace of God, King of England, to the Justiciaries, Sheriffs, Barons, and all his officers and faithful subjects, French and English, Greeting. Know ye that I have granted, and by this present Charter have confirmed to all my Barons and people of England, all the liberties and good laws and customs, which Henry, my uncle, gave and granted to them, which were had in the time of King Edward. Wherefore I will, and strictly command, that they have and hold all those good laws and liberties of me and of my heirs, for them and for their heirs, freely, fully, and securely, and prohibit any one to cause any molestation or impediment upon them,—upon my forfeiture. Witnessed by William Martel at London."

As HENRY II. succeeded quietly to the throne, October 25th, 1154, he seems to have made none of those promises concerning charters and liberties which had so much involved his predecessors. His first actions were to destroy the fortified castles of the Barons, disband his foreign soldiers, and resume the lands alienated from the crown; some of which measures were well calculated to restore tranquillity to the kingdom. He then convened the National Assembly at Wallingford in Berkshire, when it was decreed that the ancient laws of England should be restored; and he also confirmed the Charter of his grandfather Henry I., of which the following is a translated copy, from two ancient entries in the Red Book of the Exchequer, and the Cottonian Manuscript, Claudius D II., already cited, article 25, fol. 75 or 68 b, published by Sir William Blackstone and the Record Commission.

"HENRY, by the grace of God, King of England, Duke of Normandy and Acquitaine, and Earl of Anjou, to his Barons

and faithful subjects in France and England, Greeting.—(I.) Know ye, that for the honour of God and the Holy Church, and for the general amendment of all my kingdom, I have granted and restored, and by my present Charter have confirmed to God and the Holy Church, and to all Earls and Barons, and to all my tenants, all the customs which Henry, my grandfather, gave and granted to them. In like manner, also, all evil customs which he abolished and remitted, I grant to be remitted and abolished for me and my heirs. Wherefore I will, and do strictly command, that the Holy Church, and all Earls and Barons, and all my tenants, do have and hold all their usages, gifts, liberties, and free customs, freely and quietly, safely, peacefully, and entirely, of me and my heirs, to them and their heirs, as freely, fully, and securely in all things, as King Henry, my grandfather, gave and granted to them, and confirmed to them by his Charter. Witnessed by Richard de Lucy."

In 1175, King Henry appears again to have confirmed the Laws of Edward the Confessor, after which all great proceedings upon the Charters of Liberties seem to have been suspended until the time of King John; since the reign of Richard I. was too much occupied with foreign hostilities, to allow of any opportunity for either their consideration or revival. Indeed the time of Henry II. seems to have been thought a very memorable period for the administration of the law in England; and even the Great Charters of Henry III. refer to it as a precedent for the future. Vide the foregoing Notes, pages 203, 258. The series of the more ancient Charters which is now terminated, exhibits the peculiarity of the royal style before the time of King John, already referred to on page 160; namely, that of using the first person singular instead of the first person plural.

Before proceeding to notice the several ancient originals which are still extant of the celebrated Magna Charta of King JOHN, it should be observed

that the first Chapter of that instrument has reference to a preceding grant confirming the liberties of the English Church: vide pages 64, 65, 161. An ancient copy of this Charter, dated at the New Temple, London, November 21st, 1214, the 16th of his reign,[a] is yet preserved in the Register-books in the archives of Canterbury Cathedral; and another is in the Records of the Treasurer of the Exchequer; whence the instrument has been printed in the national editions of Rymer's Fœdera, Vol. I. Part i. page 126; and the Statutes of the realm, Vol. I. page 5. The principal privileges desired by the Clergy, were, firstly, that religious societies should have the right of immediately electing their own Prelates; and secondly, that the temporal possessions belonging to the vacant dignity might be placed in the hands of an ecclesiastic, and not in those of the King or a secular Baron. The latter of these, it has been shewn, was granted by Stephen, though he afterwards infringed his promise: and the conduct of other Sovereigns, in the same matter, has been noticed on pages 167, 168, of the present volume. The liberty of free ecclesiastical election was, however, the most important demand of the Clergy; and its nature, as well as the instruments referring to it, will, perhaps, be better understood, by a few historical particulars concerning it, and an outline of those circumstances which led to the Charter issued by King John.

In the appointment of Archbishops and Bishops, the ancient way of proceeding was by election: in the

[a] Some ancient copies of this Charter are dated Jan. 15th, 1214-15; which Sir William Blackstone supposes might have been a re-sealing or new publishing of the former grant, issued for transmission to the Pope, about the time that King John granted to the Archbishop of Canterbury, the entire and absolute patronage of the See of Rochester. The Pope confirmed the above Charter March 30th, 1215.

primitive Church by the votes of the Clergy and people of the diocess; and after the establishment of provinces, by approval of the metropolitan and his suffragans, who consecrated the new Prelate. By degrees, this right of election became attached to the Clergy only; the people being excluded first in the Greek, and afterwards in the Western, Church; though in the latter they seem to have retained their ancient privilege so late as the twelfth century. The influence of the crown on these elections, is supposed to have originated in the tumultuous manner in which they were performed; the violent competitions for some of the great Patriarchial Sees; and the decision of contested appointments. It may be observed, however, that the early Christian Emperors seem always to have had some kind of voice of confirmation in the disposal of the principal Bishopries, as those of Rome and Constantinople. The same practice was followed by the Gothic and Lombardic Kings of Italy; and in France a Constitution of Clothaire II. in 615, decrees that "upon the death of a Bishop, one should be elected in his place who ought to be an ordinary metropolitan of the provincials, by the votes of the Clergy and the people: and if he be a worthy person, he should be ordained upon the Prince's command." This custom was also adopted by the Emperor Charlemagne, and allowed him in A.D. 773, by Pope Adrian I. and the Lateran Council; but the actual powers of the several parties concerned in ecclesiastical elections are particularly defined by Ivon, Bishop of Chartres in the year 1100, to be "election (probably nomination) of the Clergy, voting of the people, the gift of the King, the administration of the metropolitan, and the approval of the Roman Pontiff." But though the people ceased at length to have an interest

in these elections, the Sovereigns of France and the German Emperors of the Saxon line, continued to confer Bishoprics either by direct nomination, or the more regular method of letters of recommendation to the electors; and before the Norman invasion the English Bishops were appointed by the Witenagemote, or National Council. Even in the reign of William I., also, in 1070, the King made Lanfranc Archbishop of Canterbury, with the consent of his Barons. In the instances of Cathedral churches, however, which had been originally established in monasteries, and still continued to be served by monks, they claimed and exercised the rights of Chapters. The election of Bishops was thus committed to men, who, by their seclusion from the world, were wholly unqualified to estimate the merits of the candidates; and though in the minor Sees this was of less importance, yet the monks of Christ-Church vehemently insisted on an exclusive, or at least, on a concurrent, election of the Archbishop of Canterbury, who held so influential a dignity both in the Church and State, that his election alike interested the King, the Prelates, and the nation. On this account a dispute between the monks and the voting Bishops of the province, arose at almost every election for the See of Canterbury, in which the latter supported by the Sovereign were in general successful; but the matter was at length referred to the Pope, and on November 20th, 1206, Innocent III. gave a definitive sentence in favour of the monks.

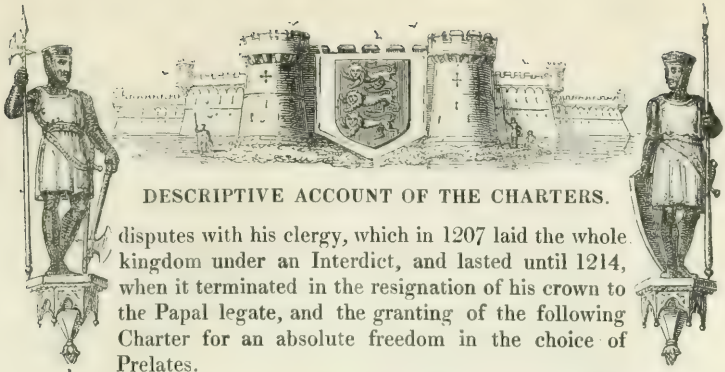
The crown, however, still remained possessed of an absolute negative in episcopal elections, because the right of Confirmation was in effect, though not in form, a power of complete donation. This was strengthened still more by the privilege of Investiture, which consisted in endowing the new Prelate with the temporal estates and dignities belonging to his office;

which, as they partook of the nature of all feudal property, were to be received of the chief lord with the same feudal ceremonies. The introduction of this practice is attributed to Charlemagne, and it comprised an oath of fealty from the priest, and presentation of a ring and crosier by the King, as visible symbols of his investing his tenant with the church-lands, &c. of his office. This practice continued for upwards of 200 years unopposed by the clergy; but in the tenth and eleventh centuries, the Sovereigns, the lay-patrons, and the Prelates, corrupted their privileges of nomination and investiture with the most notorious rapacity; though the ancient canons provided that a benefice became vacant upon any simoniacal payment or stipulation. In 1046, Boniface, Marquis of Tuscany, by far the greatest Prince in Italy, was disciplined at the altar by an Abbot for selling of benefices. Numerous Bishops had positively no valid tenure in their sees, from their agreements with princes, or customary presents to their wives and ministers: and in the Church of Milan, which was notorious for this corruption, the Archbishop exacted a small fee for the admission of every ecclesiastic to a benefice. The influence and advantage of temporal lords in ecclesiastical elections being thus extensive, the Court of Rome seized the hint for deriving a new source of profit to the Holy See; and its authority over all church-preferments having been established in Italy, at length spread itself over England. One of the earliest points in dispute appears to have been the Sovereign's right of Investiture by the ring and crosier, which was attended by the performance of homage—vide Notes to the Great Charters, page 165,—and an oath of fealty. Now, the Pontiffs contended, that the ring and pastoral staff were emblems of spiritual juris-

diction, with which lay-men had no right to interfere; and in 1098, Urban II. issued a canon at Bari, denouncing excommunication against all who gave investiture to, and took homage of priests, as well as those ecclesiastics who yielded to either ceremony. "What," exclaimed the Pontiff, according to Eadmer's account of this circumstance, "shall those hands which can create the Divinity," alluding to the transubstantiation of the Host during mass, "be pressed between such as are stained with blood and polluted by obscenity?" the conclusion of which speech the conclave received with a loud and repeated Amen. Henry I., however, strongly contested this privilege, since it secured to the ecclesiastics an entire independence of the laity; upon which Anselm, Archbishop of Canterbury, went again to Rome, and William Wadwast was sent to oppose him. The latter so irritated the Pope by his powerful reasoning, that he swore aloud "before God!" he would not commit to laymen the privilege of investiture. A reconciliation took place only by the interposition of Adela, the sister of King Henry, from her fear of his eternal condemnation, when giving of the ring and crosier was yielded to the Church, and the right of homage was reserved to the temporal lord.

The Pope, says Blackstone, thus became a feudal lord; and all ordinary patrons were supposed to hold their right of patronage under this universal superior. Estates held by feudal tenure, being originally gratuitous donations, were at that time called *benefices*, or benefits; and both their name and constitution were adopted, the care of souls in a parish being thence denominated a benefice. Lay-fees were conferred by investiture or delivery of corporal possessions; and spiritual benefices, which were at first universally donative, now received a spiritual investiture by in-

stitution from the Bishop, and induction under his authority. As lands escheated, or returned, to the lord, in defect of a legal tenant, so benefices lapsed to the Bishop upon non-presentation by the patron, in the nature of a spiritual escheat. The annual tenths collected from the clergy were equivalent to the feodal-render, or rent reserved upon a grant; the oath of canonical obedience was copied from that of fealty required from the vassal by his superior; and the *primer-seisins* of military tenures, whereby the first profits of an heir's estate were extorted by his lord, was the origin of the exaction of first-fruits from the beneficed clergy. Finally, the occasional aids, &c. levied by the Prince upon his tenants, probably first induced the Pope to collect the Peter-pence and other taxations, by means of his legates. The Pontiff next extended his authority beyond the example of any Emperor or feudal lord; and claimed the right of presentation to all benefices which became vacant, whilst the incumbent was attending the Court of Rome, or on his journey thither or back again: and also those which he left by promotion to an Abbey or Bishopric. Dispensations to avoid these vacancies produced that license called a *Commendam*, namely, the commending or committing a benefice to the charge of some ecclesiastic, until it should be provided with a pastor: but the previous nomination to such benefices, was made by instruments from the Pope, called *Provisors*, even before they were actually void. The same title was afterwards applied to any right of patronage exerted or usurped by the Pontiff; who was thus enabled to fill the best livings of England with Italian and other foreign Clergy. Such were the limitations of ecclesiastical elections at the commencement of the reign of King John. So early as 1200, however, his second year, commenced those



disputes with his clergy, which in 1207 laid the whole kingdom under an Interdict, and lasted until 1214, when it terminated in the resignation of his crown to the Papal legate, and the granting of the following Charter for an absolute freedom in the choice of Prelates.

"THE CHARTER OF KING JOHN, THAT ELECTIONS SHALL BE FREE THROUGHOUT ENGLAND.

"JOHN, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Acquitaine, and Earl of Anjou, to the Archbishops, Bishops, Earls, Barons, Knights, Bailiffs, and all who shall see or hear these letters: Greeting. Forasmuch as between us and our reverend fathers, Stephen (Langton,) Archbishop of Canterbury, Primate of all England, and Cardinal of the Holy Roman Church, William (de St. Maria,) of London, Eustace, of Ely, Giles (de Braose,) of Hereford, Joceline, of Bath and Glastonbury, and Hugh (Wallys,) of Lincoln, Bishops; at the time of their taking off the Sentence of Interdict, it was by the grace of God fully, purely, and spontaneously, covenanted on both sides, that we should not only make them satisfaction as far as we might according to God; but also that we should for ever provide for the health and benefit of the Church of England. From henceforth, therefore, it shall be, that whatever customs have been observed in the Church of England, in the time of us and our predecessors until now, and whatever rights we unto this time have claimed in the elections in any of her Prelates soever, we at their petitions, for the health of our own soul, and for the souls of our predecessors and successors of this kingdom of England,—have freely, truly, and voluntarily, granted and ordained, by the common consent of our Barons, and by this our present Charter we have confirmed, that for the future, in all and every of the churches and monasteries, cathedrals and convents, throughout our kingdom of England, there shall be freedom in all elections whatsoever, *both* of greater and lesser Prelates; saving to us and our heirs the custody of those vacant churches and monasteries which are be-

longing to us. We promise, also, that none shall hinder them, nor shall any impediment be permitted by us, nor will we procure any question; but in all and every of the said churches and monasteries, after that they have become vacant of Prelates, the electors shall be free to set apart their pastors whensoever they will: so that they first petition us and our heirs for leave to elect, which we will neither deny nor defer.—And if, perchance, we should depart from this, or deny or defer *our licence*, the electors shall nevertheless proceed to make their canonical election; and in the same manner after making their election, they shall require our consent to it, which, in like manner, we will not refuse, unless we have any reasonable purpose or lawful proof, by reason of which we ought not to consent. Wherefore we will and do strictly command, that nothing shall be presumed to be made or done against the vacant churches and monasteries contrary to this our grant and ordinance, in any thing; and if any thing should ever be so brought by the course of time, it shall incur the malediction of Almighty God and of ourselves. Witnesses to this, P(eter de Rupibus,) Bishop of Winchester, William Marshall, Earl of Pembroke, William, Earl of Warren, R(anulph de Meschines,) Earl of Chester, S(aher de Quincy,) Earl of Winchester, Geoffrey de Mandeville, Earl of Essex and Gloucester, William, Earl of Ferrars, William Brewere, Warine Fitz Gerald, William de Cantilupe, Hugh de Nevile, Roger de Vere, William de Huntingfield. Given at the New Temple, by the hand of Master Robert de Marsh, our Chancellor, the fifteenth day of January, in the sixteenth year of our reign."

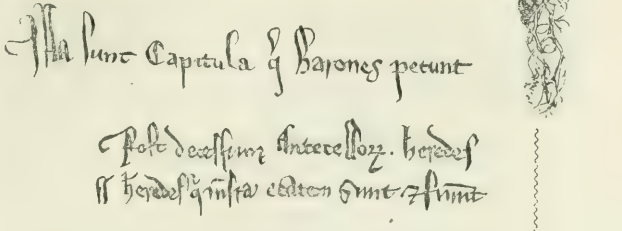
Out of this Charter, then, arose the modern *Congé d' Elire*, or license for the election of Prelates; though it resigned the Crown's ancient right of nomination. This grant was expressly recognised and confirmed in the Great Charter of King John, and was again established by Statute in 1297, the 25th of Edward III., Stat. 6. sect. 3. The Pontiff of Rome, however, still continued to possess a very considerable influence in the election of English Prelates; and in

1232 an association was formed, including several persons of rank for the expulsion of his foreign clergy. Though the attempt was popular, it was unavailing; for whilst Cardinal Otho was Legate at the Court of Henry III., three hundred more Italian monks were provided for between 1236 and 1240. In 1533-34, however, the 25th of Henry VIII., Chap. xx., the privilege of nomination was, in effect, restored to the Crown; it being enacted that at every future vacancy of a Bishopric, the King may appoint the Dean and Chapter thereof, his usual license to elect, together with his letter-missive containing the name of the person whom he would have elected, and if the election be delayed more than twelve days, the nomination shall devolve to the King, who may then appoint whom he will by his letters-patent. This election, or nomination, if it be of a Bishop, must be signified by those letters to the Archbishop of the province; and if it be of an Archbishop, by letters to the other Primate, and two or four Bishops, requiring them to confirm, invest, and consecrate the person so elected: which they are bound immediately to perform, without any application to the See of Rome, After which the Bishop elect shall sue the King for his temporalities, shall make oath to him, and to none other, and from his hands only shall receive his temporal possessions. If the Dean and Chapter omit any part of this ceremony of election, or refuse to consecrate the person appointed, they are held to have incurred the penalties of a *præmunire*, or the acknowledgement of a foreign authority. This Statute was repealed in 1547, the second year of Edward VI., but is held to have been reflectively revived and to be still in force. It does not apply, however, to the Bishoprics of Bristol, Gloucester, Chester, Peterborough, and Oxford, created in 1541 and 1546, subsequently to the

passing of this Statute, since they have always been pure donatives in form as well as in substance.—Having thus given an account of the Charter of ecclesiastical liberties granted by John, the narrative returns to the description of the ancient originals, &c. of Magna Charta itself.

An undoubted original of the *Articles*, containing the heads of that instrument, with a fragment of the Great Seal in brown wax, still suspended to the lower part by a parchment label, is yet preserved in the Library of the British Museum. When Sir William Blackstone printed this instrument in 1759, it was in the possession of David Mitchell, Esq. the executor of Sir Thomas Burnet, son of the celebrated Dr. Gilbert Burnet, Bishop of Salisbury, from whom it was originally received. In 1769 the autograph manuscript was presented to the national repository before mentioned, by Philip, 2nd Earl Stanhope; and is now marked Donation MSS. 4838, being pasted on a cloth and preserved beneath a frame and glass in the room, containing the Royal Library, No. VII. Like the Charters themselves, these Articles are written on parchment, and measure 10¾ inches in breadth, by 21½ in length, inclusive of the fold for receiving the label. The seal is considerably damaged, but the writing is well preserved, excepting some letters which have been worn out by the folds of the parchment. The character is a very small Norman running-hand, with many contractions, and a specimen of it is represented in the annexed engraving, which has been copied from the commencement, and contains the following words, the contractions being supplied in Italic letters:—

Ista sunt Capitula q*uo*d Barones petunt
Post decessum Antecessor*um* heredes
ss. Heredes qui infra etatem sunt & fu*er*int.

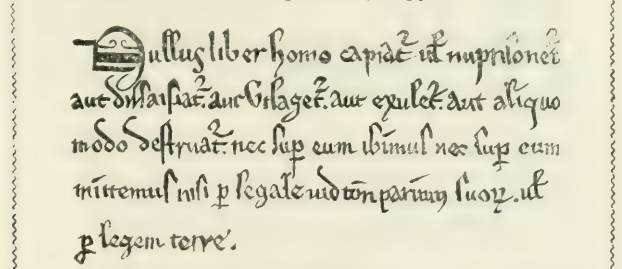


An excellent fac-simile of this highly interesting deed, has been engraven for the Record Commission, and is inserted in several of the volumes published by its authority. Some account, with a translation of these Articles has already been given in the present volume, vide pages 30, 31, 49-61; the English text being divided into the same sections as the original, though they are not numbered in the manuscript. The entire instrument is eighty-nine lines in length, and the hand is generally the same throughout the whole, though some parts appear to have been added some short time subsequent to the rest. Thus, after sections xlv. and xlvi., each of which composes only one line not extending the whole breadth of the parchment, an exception is subjoined at the end of them written in a more hasty hand, and connected with them by a kind of angular brace; as if added at the instance of the King's Commissioners upon more mature deliberation, vide pages 58, 59, 268. Of the Articles of Magna Charta, there are also some entries yet extant in ancient manuscripts; one of which, contained in the Archiepiscopal Library at Lambeth, (3 Selden 1995,) was inserted by Sir Henry Spelman in his *Codex veterum Legum*, printed by Dr. Wilkins in his *Leges Anglo-Saxonicæ*, already cited. The above original, however, having been referred to by Bishop Burnet, in his famous *Pastoral Letter concerning the Oath of*

Allegiance to William III. and Queen Mary, Lond. 1689, 4to., the extract was doubted by some of his antagonists; upon which the Lambeth copy was again printed, though somewhat incorrectly, in the Appendix to a tract, intitled, *Reflections upon the opinions of some modern Divines, concerning the nature of government in general, and that of England in particular.* Lond. 1689. 4to.

Though the famous copy of *King John's* Magna Charta, preserved in the Cottonian Library in the British Museum, has been considered of inferior authority to some others brought forward by the Record Commission, on account of its deficiency in several words and sentences, which are added for insertion beneath the instrument; yet the same circumstance may very probably be a proof of its superior antiquity, as having been the first which was actually drawn into form and sealed on Runnemede, the original whence all the most perfect copies were taken: on which account, the notices of it may be placed before those of the several other originals of the same edition. The whole Charter consists of eighty-six lines, including one of the additions, which are referred to by certain marks to be inserted in four different places. These are, firstly, in Chapter xlviii., see pages 84, 86, of the preceding copy, where a clause is to be added after the word, "*deleantur*," providing that the King or Justiciary should be previously acquainted with the destruction of unlawful Forests. The second occurs in Chapter liii., see page 88 after the word "*habebimus*" and extends to the word, "*deafforestundis.*" The third addition is to Chapter lvi., see page 90, and consists of the passage "*in Angliâ, vel in Walliâ;*" and the fourth insertion comprises the words, "*in perpetuum*," in Chapter lxxi., see page 92. This very ancient copy of the Great Charter is written on a skin of parch-

ment, measuring 14½ inches in breadth, by 20½ in length, including the fold for the label: but it was very much shrivelled and mutilated, and the seal reduced to an almost shapeless mass, by the fire which took place at Westminster, on Saturday, Oct. 23rd, 1731, and destroyed the building containing the Cottonian and Royal Libraries. The character in which it is written is nearly similar to that of the preliminary Articles already mentioned, though somewhat coarser and stouter; and it is perhaps a curious circumstance, that the passages of this Charter, which still remain the most legible, are the two most famous sections in the whole instrument, which would alone have procured it the title of the Great Charter. These are Chapter xxxix., which preserves the liberty and property of the subject until after trial, which has been copied in the following fac-simile; and Chapter xl., which provides for the free and immediate dispensation of justice to all. The words of these passages will be found on pages 82, 83, of the preceding copy.



The mutilated original Charter is now exhibited within a frame and glass, with Pine's admirable fac-simile,—of which an account is given in another part of this article—placed opposite to it, printed on vellum and emblazoned, in the manner represented in the

initial letter on page 394. The preservation of this invaluable relique of English history, is commonly considered as one of the most remarkable instances of the recovery of ancient manuscripts; since it is stated in the fragments of Paul Colomies, published in the volume of *Anas*, by Pierre Des Maizeaux, Amsterd. 1711. 12mo.—to have been accidentally seen by Sir Robert Cotton at his tailor's, just when he was about to cut it up for measures. He bought the singular curiosity for a trifle, adds Colomies, who long resided and died in England, and thus preserved it to posterity. But as there are some objections against the truth of this anecdote, it may, perhaps, be regarded rather as a popular tradition than the relation of a fact. The instrument is said to have had all its appendages of seals and signatures; whereas it is well known that this Magna Charta had only the Great Seal attached to it, and no signature whatsoever. It may be observed, too, that a copy of King John's Charter preserved in the Cottonian collection, appears by the following extract of a letter addressed to Sir Robert Cotton, and still contained in a volume of his correspondence in the Library marked Julius C. III., fol. 191, to have been derived from a very different source.

"Sr

I have heere ye Charter of K. John dat. att Running Meade: by ye first safe and sure messenger itt is your's. So are ye Saxon Charters, as fast as I can coppy them: but in ye meane time I will close K. John in a boxe and send him. * * * *

Your affectionate friend and servant,

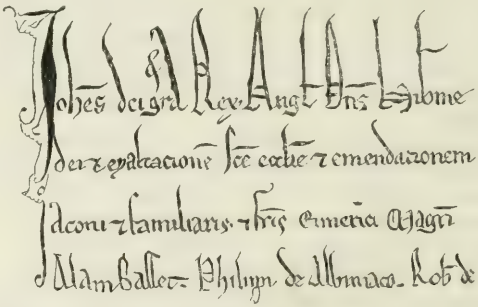
Dover Castle, May 10, 1630." EDWARD DERING."

It is possible, however, that the copy referred to in this letter, might not have been the ancient Charter

which is usually exhibited at the British Museum; since another is also preserved in the Cottonian collection, and contained in a port-folio of various regal and ecclesiastical deeds, marked Augustus II., Article 106: which is described in the Catalogue of Manuscripts, as "K. John's Charter of Liberties, called Magna Charta, (Lat. Original,) Ronimede, June 15th, 1215." It differs from the other in point of appearance, being extremely fresh and fair, and it measures 17 inches by 21; though contrary to other originals the writing extends across it, the longest way of the parchment. The fold and label are now cut off, though it is said once to have had slits in it for two seals, for which it is almost impossible to account; but Dr. Thomas Smith, in his Preface to the Cottonian Catalogue, Oxford, 1695, folio, states that they were those of the Barons. The character is similar to that of the other copies, being a small Norman running-hand, occupying fifty-two lines, including one of the former additions; and it has also the titles of several Chapters inserted in a somewhat later hand in the left-hand margin.

The Anglo-Saxon custom of registering important writings in Religious Houses, having been already described, it is not surprising to learn that some of the finest originals of the Charters of Liberties were discovered by the Record Commissioners, in the Archives of the English Cathedrals. That copy, in particular, of King John's Magna Charta, to which they appear to attach the greatest degree of credit, is mentioned in the following manner. "In Lincoln Cathedral, an original of the Great Charter of Liberties; granted by King John, in the seventeenth year of his reign, is preserved in a perfect state. This Charter appears to be of superior authority to either of the two Charters of the same date, preserved in the British

Museum. From the contemporary indorsement and the word *Lincolnia* on the folds of the Charter, this may be presumed to be the Charter transmitted by the hands of Hugh, the then Bishop of Lincoln, who is one of the Bishops named in the introductory clause; it is observable that several words and sentences are inserted in the body of this Charter, which, in both the Charters preserved in the British Museum, are added by way of notes for amendment, at the bottom of the Instrument." A very fine fac-simile of it has been engraven by James Basire, for the publications of the Record Commission; and it represents the character to be a small Norman running-hand, with many contractions, but more carefully and delicately written than the former copies, as if executed at more leisure. The following is a specimen of the opening lines:—



Johanes dei gratia Rex Angliæ Dominus Hibernie—
dei & exaltacionem *sancte* ecclesie & emendationem—
subdi aconi & familiaris. & Fratris Eimerici Magistri—
Alani Basset. Philippi de Albiniaco. Roberti de—

The whole instrument occupies fifty-four lines, and measures 17⅛ inches, by 17½ exclusive of the fold

for the label. It is endorsed in Latin in a hand-writing more modern than the deed itself, "The agreement between the King and the Barons, by a g ant of liberties to the church and kingdom of England."

After a lapse of nearly eighty years, another original of this Charter has been recovered in the Archives of Salisbury Cathedral; being probably that intrusted either to Herbert Poore, the Bishop, or William Longespée, the Earl. The copy above-mentioned at Lincoln, appears to have been unknown to Sir William Blackstone, and to have been first found out and published by the Record Commissioners; but though both were acquainted with the existence of the Salisbury record, as having been that which Tyrrell collated for his *History of England*, vol. ii. page 821, Append. 9,—yet when Blackstone searched the Records of the Dean and Chapter in April 1759, it was not to be found, and was even said to have been missing then thirty years. Its concealment at that time, was partly attributed to some repairs making in the Cathedral Library, which had thrown the books and MSS. into some disorder; but it was also overlooked in the more accurate researches of the Record Commissioners in 1806: and the popular notion seems to have been that Bishop Burnet had conveyed it away. In Dodsworth's *Historical Account of Salisbury Cathedral*, page 202, however, published in 1814, it is again mentioned as being preserved there; and as written in a character similar to the other originals. See *Gents. Mag.* June 1815, vol. lxxxv. i. page 524. The reason for suspecting Burnet of secreting it, appears to have arisen chiefly from his possessing the Articles of Magna Charta already mentioned, and the following anecdote in the First Book of the *History of his Own Times*. When the impeachment of William Laud, Archbishop of Canterbury, was brought to the bar of

the House of Lords, December 18th, 1640, apprehending the termination, he sent Dr. John Warner, Bishop of Rochester, to Lambeth with the keys of his closet and cabinet; that he might destroy or put out of the way all papers which might hurt either himself or others. He was thus employed for three hours; till upon Laud being committed to the custody of the Black-Rod, a messenger was despatched to seal up his papers, who came, however, after every thing had been removed. One of the writings taken away, is supposed to have been the original Magna Charta, passed by King John at Runnemede;[a] which being found by the executor of Bishop Warner, descended to Col. Lee, his son and executor, who presented it to Dr. Burnet. A note on this passage, by William Legge, first Earl of Dartmouth, and first published in the recent excellent edition of Burnet's History, remarks that "there was reason enough for the Bishop's giving an account of how he came by this most valuable piece of antiquity: his having been trusted, (especially since the publication of the History of the Reformation,) in searching all records, private and public, gave good grounds to suspect he had obtained it in a less justifiable manner."

These, then, are the originals of the Great Charter of King John which are now extant; but there are also numerous ancient entries of it, which have been collated by Sir William Blackstone and the Record Commissioners. One of these is preserved in the

[a] Sir William Blackstone suggests the following reason for this document being found at Lambeth. The treaty of peace between Louis the Dauphin and Henry III. was dated there on Sept. 11th, and one of the printed copies of it contains a provision that Louis should restore to the King, all the Records of the Exchequer which he possessed, and the Charters of Liberties made by King John at Runnemede. These writings had probably been placed in his hands by the insurgent Barons, and were perhaps deposited in the Archbishop's palace after the compact was concluded.

Archives of Gloucester Cathedral, in a Register supposed to have been compiled in 1397; and another is in a volume of the Harleian MSS. in the British Museum, No. 746. It consists of a collection of Laws and Charters of Edward the Confessor, William I., Henry I., &c. fairly written on parchment, probably in the time of Edward I. In the margin of John's Charter, (Article 10, fol. 59 b, 64,) are the names of the 25 Barons who were securities to that instrument, and parties to the succeeding Covenant; in which names, as recorded by Matthew Paris, it has rectified several errors. Vide the preceding Notes, pages 294, 296, 298. But, perhaps, the most authentic record of this Charter is contained in the Red Book of the Exchequer at Westminster, to which is added a copy of the Letters-Testimonial mentioned in Chapter lxii. see pages 98, 99, 325. The commencement of this ecclesiastical registration is as follows.

"To all the faithful in Christ to whom the present writing shall come, Stephen, by the grace of God, Archbishop of Canterbury, Primate of all England, and Cardinal of the Holy Roman Church; Henry, by the same grace, Archbishop of Dublin, Peter of Winchester, Joscelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, by the Divine Mercy, Bishops; and Master Pandulph, the subdeacon and familiar of our Lord the Pope,---Salutation in the Lord. Know ye, that we have seen the Charter which our Lord John, the illustrious King of England, hath made to his Earls, Barons, and free-men of England, concerning the freedom of the Church, and their own liberties and free-customs granted to them under this form following: John, &c."

The whole Charter is then recited at length, and it concludes with, "And that nothing is added to the aforesaid form, and not any thing in the least taken

from it, to this writing we have affixed our hands and seals."

All the preceding records of King John's Great Charter, are in the Latin Language, but in the *Spicilegium*[a] of Luc D'Acheri, there is a translation of it into French; the original of which, Sir William Blackstone supposes, might have been carried into France by Louis the Dauphin, though it is doubtful if it were promulgated in that language in England.

Pages 31, 102-104, of the present volume, contain an account and translation of the *Covenant of Security* given by King John to his Barons after the conclusion of the Great Charter; the only ancient record of which, appears to be on the Close Rolls of the 17th of John in the Tower, membrane 27 d. 21 d.

The *First Great Charter* of HENRY III., which is the next of this series of instruments, has been noticed and printed on pages 37, 105-116 of the present volume. Until it was printed by Sir William Blackstone, its very existence seemed to be unknown, even to historians, antiquaries, and lawyers. Prynne and Tyrrell appear to have been the only persons who had noticed it; the former referring to it only incidentally, and the latter sometimes confounding it with the grant of King John, or that of Henry III. in 1217. It is, however, expressly mentioned in a letter from the Sovereign to the Chief Justiciary of Ireland, entered on the Close Rolls; and an original copy of it was

[a] Vol. XII. p. 573. This work was the most considerable production of its author, who was a Benedictine of St. Maur, born in 1609. It consists of a curious collection of ancient documents relating to ecclesiastical affairs, as acts, canons, councils, chronicles, lives of saints, letters patent, diplomas, charters, &c. taken from the French monastic libraries, but principally from those of the Benedictines. It was originally published in 1653-77, 13 vols. 4to., the author dying in 1685; but in 1725, a new edition, in 3 vols. folio, was printed by Louis François Joseph de la Barre; which was improved in arrangement, though many liberties were taken with the text and prefaces.

found preserved in the Archives of Durham Cathedral, where it still remains. It is dated Bristol, November 12th, 1st Henry III., 1216, and is indorsed in Latin, "The Great Charter of King Henry III.," and "The Charter of Liberties of King Henry, granted to the men of his kingdom." The parchment on which it is written, measures 17 inches by somewhat more than 16; but though it still contains labels for the seals of William Marshall and Cardinal Gualo, both the impressions are gone. An ancient entry of this Charter is in the Domesday-Book of York Cathedral;[a] and a copy of the grant of the same date sent to Ireland,—see pages 37, 116, is recorded in the Red Book of the Exchequer of Dublin.

The *Second* Magna Charta of Henry III.,—see pages 37, 38, 118-130 of the present volume,—was issued in 1217,[b] and is also unnoticed by all the Eng-

[a] This record is an ancient Ledger-book or Chartulary, preserved in the Archives of the Cathedral, and apparently written about the time of Edward I. or II.

[b] As none of the copies of this Charter contain any kind of date, the actual time when it was granted is matter of great uncertainty; which is increased by the few notices existing concerning it. A manuscript Chronicle of London preserved in the City Archives, assigns it to a Parliament at Merton, September 23rd, 1217: whilst the Annals of Waverley Abbey, which are a contemporary authority, state that after Michaelmas, A. D. 1218, the Council met at London, and renewed the Charter of King John under the seals of the Legate, William Marshall, &c. the instrument being written in the manner of a Chirograph, which practice is explained hereafter. The Chronicle of Robert of Gloucester, who is supposed to have died in 1280, also fixes the granting of the Great and Forest Charters to 1218; though there are extant many ancient copies of both, dated at St. Paul's London, Nov. 6th, in the second year of King Henry III. To reconcile these statements, Sir William Blackstone supposes, that the King's ministers in pursuance of their engagement at the close of the former Charter, (see page 116,) recousidered the whole, and granted that of the following year, under the Legate's and Protector's seals at Merton on Sept. 23rd, as mentioned in the Chronicle of London; since the Adulterine Castles are ordered to be destroyed by authority of the Common-council of the whole kingdom. There are also several arguments adduced for assigning the year 1217 to this Charter, though the period of the King's

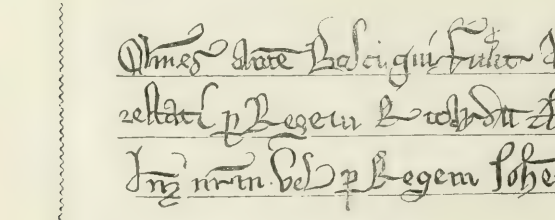
lish historians but Tyrrell, who likewise speaks of it very imperfectly. The original Charter itself, whence Sir William Blackstone first published it, is, however, yet preserved in the Bodleian Library at Oxford; marked MSS. Furney, No. 5. It measures 17 inches by 23, including the fold for the label; and is endorsed in a contemporary hand, *Magna Carta, Caps. xiiij, de Lanc. te,* which seems to have been a mark denoting the capsule, or drawer, wherein it was deposited at the Abbey of Gloucester, to which religious house it is supposed once to have belonged. It is also endorsed in an ancient hand, though somewhat later than the Charter itself, *Carta H. regis, de libertatibus magne carte H. reg. avi nostri. Registratur W....at.* There still remain attached to it parchment labels with the seals of Cardinal Gualo in white wax, and of William Marshall, in green; engravings of which will be found on pages 117, 130, of the present volume. There are also many ancient entries of this Charter in the

reign cannot be so certainly known: for if it were granted in September, as assumed above, it was in the close of the *first* year of Henry III., and if in November, with the Forest Charter, it was in the commencement of his *second*. It certainly cannot be placed earlier than the peace between Henry and Louis, September 12th.; nor later than the 22nd of February following, since there are writs of that date upon the Close Rolls, addressed to all the Sheriffs of England, directing them to publish the two Charters in full County Court, and to cause them to be observed in all points, especially those relating to the destruction of the Adulterine Castles. Another argument is derived from the report of a doubtful case decided in Easter Term, A. D. 1221, 5th Henry III., which was adjudged by the Court to be "according to the Statute of Magna Charta, that what is not done at the Assises shall be determined before the Justices." Now it is evident that, from the date, this passage cannot refer to the Charter of 1224-25; nor yet to that of John, or the 1st of Henry III., since the provision alluded to first appeared in the instrument now under consideration: see page 123, Chapter xiv. It is worthy of remark that there is a blank in the close of the Oxford original of this Charter, see page 130, as if the scribe had been doubtful how to entitle it; whence it has been suggested that it was only the very first draught of the instrument, issued in September, which was afterwards more fully attested and dated in the November following.

Domesday-Book of York; and in manuscripts preserved in the Archives of Gloucester Cathedral; in the British Museum, Harl. MSS. No. 746, art. 12, fol. 65, b.; in the Bodleian and Inner-Temple Libraries; in the Library of Corpus Christi College, Cambridge; in the Public Library of the same University; a French translation in the Library of Trinity College there; and in a very old record in the Town-Clerk's Office of London, commonly entitled, Liber Custumarum. Most of these entries, however, want the clause on page 129, concerning the destruction of the Adulterine Castles; and the latter entry, is not a contemporary one, as supposed by Sir W. Blackstone, the book itself affording internal evidence, that it was certainly not made before the 14th year of Edward II., 1320.

With this edition of the Great Charter appeared the *First Forest Charter* of Henry III., dated at St. Paul's, London, November 6th, 1217, in the 2nd year of his reign. When Sir W. Blackstone published his collection of the English Charters, this instrument and all authentic records of it were lost; and the popular belief was, that the original grant of Forest liberties was issued by King John, as stated by Roger de Wendover, or Matthew Paris, who asserts that those privileges being too extensive for insertion in the Great Charter, they were contained in a separate instrument. This erroneous notion appears to have been first questioned and disproved by Blackstone, some of whose arguments against it will be found on pages 237, 238, of the preceding Notes. To these it may be added, that notwithstanding the above assertion of the ancient historian, the original heads of Magna Charta contain no clauses concerning the Forests, which are not entered and amplified in the instrument itself. It appears also, that the existence of the Forest Charter of 1217 was scarcely suspected, though it was positively

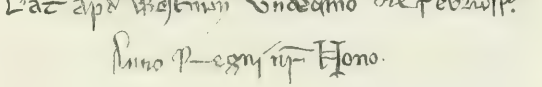
referred to on the Patent Rolls; but the researches of the Record Commissioners have at length discovered an original autograph of it in the Archives of Durham Cathedral, which appear to be singularly rich in authentic copies of the Charters of Liberties. On a rearrangement of these manuscripts, about sixty years before the Commissioners' visit in 1806, the Forest Charta was not found in its proper drawer, and was considered as lost; but on a diligent search then made, it was discovered in a box in a closet in the Chapter-Room, with several deeds concerning the possessions of the Chapter. It measures 13 inches by 15, inclusive of the fold for the parchment labels, to one of which, the seal of Cardinal Gualo is yet suspended, more perfect than that already mentioned in the Bodleian Library; but the seal of William Marshall is gone. The lower part of this instrument on the right hand, is destroyed either by time or accident, but its deficiencies have been supplied in the Record Commission publications, by ancient entries in lib. x. in the Exchequer at Westminster, the Black-book in the Cathedral of Christ-Church, Dublin, and the Domesday-book of York. The whole Charter contains 48 lines, written in a hasty Norman running-hand with many contractions, a specimen of which is given in the ensuing copy.



Omnes autem Bosci qui fuerunt affo-
restati per Regem Ricardum Auum
dilectam nostram. Vel per Regem Johannem.

This passage forms part of Chapter i. which will be found in the translation of the Charter printed on pages 329-336 of the present volume; on the latter of which is also an engraving of its fine remaining seal. An excellent copper-plate fac-simile of the whole instrument, by J. Basire, will be found in the publications of the Record Commission. In this most interesting document, is contained a passage which was omitted in the succeeding Forest Charter of Henry III. It occurs at the end of Chapter xiv., page 334, and is "Also cheminage shall not be taken by our Foresters for any beside our Demesne Woods." See likewise the Notes on the Forest Charters, page 358.

The *Third Great Charter* of King Henry III., is the famous instrument granted in the 9th year of his reign, and dated at Westminster, February 11th, 1224-25; on which all the subsequent Charters were formed, and which usually commences the collections of Statutes. It will be found printed in the foregoing series, pages 131-144, translated from an original preserved in the Archives of Durham Cathedral, with a fine specimen of the Great Seal in green wax, attached to it by silk twist and a parchment label. It measures 14½ inches by 21¼, and it contains 65 lines of writing, the character being a Norman running-hand with many contractions, as may be seen in the following fac-simile from the conclusion.



Datum apud Westmon*asterium* vndecimo die Februarii Anno Regni *nostri* Nono.

A very fine engraving of this interesting Charter has been executed by Basire for the Record Commission, in which is shewn the part obliterated by a bottle of ink having been accidentally thrown over it, whereby some words and letters are rendered nearly illegible. For the Record publications this deficiency was supplied, by an ancient entry of the same Charter in a Ledger-book belonging to the same Cathedral; but the copy printed by Sir William Blackstone, was taken before its defacement. That copy, however, was collated with another fine original preserved at Lacock Abbey, Wiltshire, already alluded to on page 321 of the present volume. It measures $12\frac{3}{4}$ inches by $20\frac{1}{2}$, including the fold for the label, and the seal is of green wax suspended to a skein of silk of the same colour. From the indorsement,—*Ex deposito militum Wiltesir' Henrici Regis filii Johannis Regis, de libertatibus et quibusdam consuetudinibus per Angliam, constitutis*—in a contemporary hand, it has been thought to be the copy of Magna Charta sent to the Knights, or military-tenants in Wiltshire; and to have been deposited in the Monastery of Lacock by Ela, Countess of Salisbury, its founder. After the dissolution of Religious Houses, this edifice was granted to Sir William Sharrington; who, probably, converted it into a dwelling, and erected the tower at the South-east angle, the middle apartment of which is used as a record-room, and contains the original of Magna Charta now described. The property afterwards descended to the family of Talbot, which communicated the document to Sir William Blackstone; and the present proprietor is Henry Fox Talbot, Esq. but the Abbey is occupied by John Rock Grossett, Esq.—An ancient entry of the Magna Charta of this date, is

in the Red Book of the Exchequer at Westminster, fol. clxxxiij.

With the last-mentioned Great Charter, was also published the *Second Charta Foresta* of Henry III., likewise dated at Westminster, February 11th, 1224-25. An original of this, printed by Blackstone, is still preserved in the Archives of Durham Cathedral, which, though very much mutilated, has the Great Seal in green wax still perfect. Its deficiencies were supplied, however, both for the Record Commission and Sir William Blackstone, principally by an ancient entry in a Ledger-book belonging to the same Church; and the learned commentator was also favoured with the collation of a very curious and apparently contemporary roll, containing the Great and Forest Charters of the 9th of Henry III., formerly belonging to the Abbey of Hales Owen in Shropshire, and then in the possession of the celebrated Sir George, Lord Lyttleton. This record was remarkable for containing the passage concerning cheminage in the King's demesne woods, already noticed as being preserved in the original Forest Charter, and omitted in all others excepting that which Matthew Paris has attributed to King John.

The next instrument of this series was the *First Confirmation of the Charters*, granted by Henry III., and dated at Westminster, January 28th, in the 21st year of his reign, 1236-37, which has been described in the preceding article, page 376.

Another original of *Magna Charta*, both the granting and existence of which seem to have been unnoticed by Sir William Blackstone, is preserved with the Cottonian MSS. in the port-folio marked Augustus II., Art. 51, containing a collection of ancient Charters, Papal Bulls, &c., and has been already noticed on page 144 of the present volume. It

is dated Westminster, February 11th, the 36th of Henry III., 1251-52; and is written on a page of parchment, measuring 10 inches by 19½, in 83 lines, in a small elegant Norman running-hand with many contractions. It contains several apparent errors and readings which vary from all other copies of the Great Charter; of which, perhaps the most remarkable, is directing one hundred *pounds* to be paid for the relief of an Earl's barony instead of a hundred *marks*, as in all other editions. The differing passages will be found inserted in the copy published for the Record Commission, by which this original seems to have been first noticed. The indorsements upon this Charter would probably shew where it had been originally deposited, but it is firmly pasted down upon stout old paper, with other parchment deeds on the reverse of the leaf, so that only an indication of the writing can be discerned.

The *re-publication* of the *Charters*, with the *Sentence of Excommunication* on such as should infringe them, openly pronounced in Westminster Hall, May 13th, 1253, have been already noticed and recited.

The *Second Confirmation Charter* of the 49th of Henry III., 1264-65, dated Westminster, March 14th; has been already described in the preceding article; as well as the *Inspeximus* of the *Great* and *Forest Charters* of the same year connected with it. These instruments were the last issued by King Henry the Third.

The *First Magna Charta* of EDWARD I., was dated Westminster, Oct. 12th, in the 25th year of his reign, 1297; and was an Inspeximus of that granted in the 9th year of the preceding reign, 1224-25, which it recites at length and confirms, as may be seen in the translation already given in the present volume, pages 145-158. The various readings contained in this edition of the

Great Charter were printed by Blackstone from the entry on the Statute-Rolls in the Tower: but the Record Commissioners have discovered and published a very fine original in the Archives of the City of London, with the Great Seal yet remaining suspended to it by a skein of twisted silk. It is written in the Court-hand of the period, and on the fold for the label is inscribed *R. de Scard. examinavit——London.* There is also attached to it a small schedule, containing a Writ to the Sheriffs of London for proclaiming and observing the Charter,[a] and on the back the following indorsement, written in Latin in the time of Edward II. "King Henry's Great Charter of the Liberties of England, confirmed by our Lord King Edward, father of the present King." A fac-simile engraving of the commencement and termination of this document, with the seal, has been engraven by Basire for the publications of the Record Commission.

Of the *Charta Foresta Inspeximus*, issued with the preceding, and like it dated at Westminster, October 12th, 25th of Edward I., 1297, it is not known that there is any original extant; but ancient entries of both are recorded on the Statute-Roll for the year, which have been printed by the Record Commission, with an engraved fac-simile. They are also registered

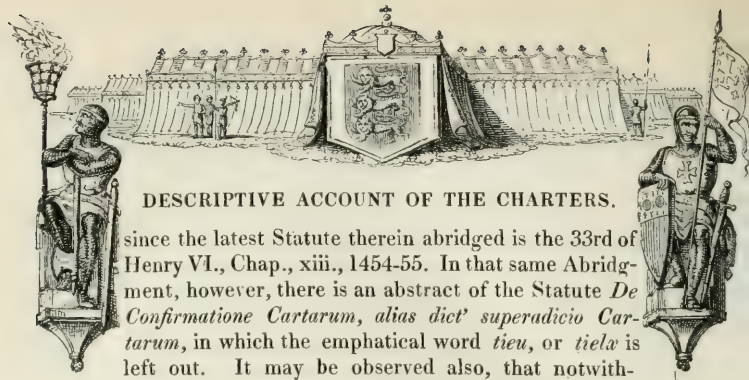
[a] Of this Writ the following is a translated copy: "EDWARD, by the grace of God, King of England, Lord of Ireland, and Duke of Acquitaine, to the Sheriffs of London, Greeting:—Whereas in the reliefs of all the inhabitants and people of this our kingdom, for the subsidy of a ninth granted from the laity of our kingdom, in defence of the same kingdom,---We have granted and confirmed, for us and for our heirs, the Great Charter of the Liberties of England, and have renewed them, willing and granting that the Charter in all and singular its articles, shall be firmly and inviolably observed,---We command you that the aforesaid Charter be published in the aforesaid City without delay, and that you cause, as much as in you lieth, all and singular of its articles to be firmly held and observed. Witness, Edward, our son, at Westminster, the Twelfth day of October, in the twenty-fifth year of our reign."

in a Manuscript in the Archives of Gloucester Cathedral; and a French translation will be found in the Harleian MSS. No. 5326.

The *Confirmationes Chartarum* of 1297, the 25th of Edward I., passed by Prince Edward at London, Oct. 10th, and afterwards sealed by his father at Ghent, Nov. 5th., have been printed with a full explanation and description on pp. 369-373, 383-389, of the present volume. Ancient entries of it are on the Statute Roll, membrane 38, and in the Harleian MSS. No. 5326.

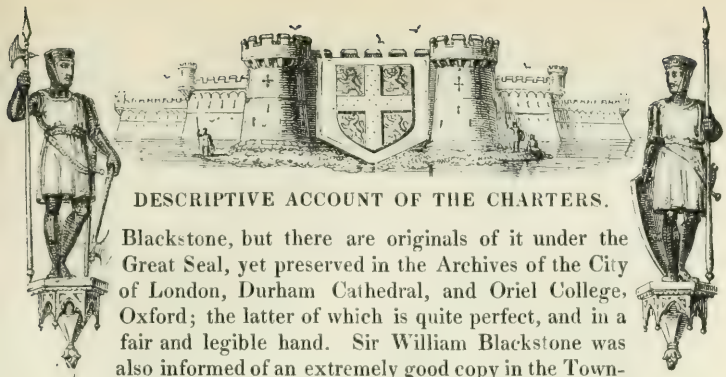
It has been greatly disputed whether this Charter be not the same Statute as that enacted in 1305-6, the 34th of Edward I., Stat. 4., and called, *De Tallagio non concendendo.* It had a similar origin, in the King requiring every freeholder of lands amounting to £20 yearly, to attend him into Flanders, or pay him a compensation instead, for carrying on his wars with the King of France, in behalf of Guy, Earl of Flanders. To this the High-Constable and Marshal, who had distinguished themselves on the former occasion, —see page 43 of the preceding Essay,—renewed their opposition; and, being powerfully supported, at length compelled the King to pass another statute against the unlawful levying of money, if indeed it were not the Confirmationes Chartarum translated into Latin. Though shorter, and comprising only five Chapters, its contents are very similar; and provide that taillages and aids should not be taken but by consent of the national council; that the King's officers should not take purveyance of corn, hides, &c. without the owner's permission; that the maletoute of wool should be abolished; that all the people of England should enjoy their liberties; that the High-Constable and Marshal, and their adherents, should have a free pardon; and that the Statute should be read by the Prelates in their Cathedrals with a Sentence of Ex-

communication against its violators. There were, however, some differences between this Statute and the Confirmationes Chartarum, as in the omission of the restrictive word *tielx*, such,—in the clauses relating to aids; and in not providing any exception in favour of the three allowable feudal aids; thus fixing an absolute prohibition against the raising of any taxes, &c. without the consent of the realm. As a point of history the separate identity of these two instruments is perhaps scarcely proved; since Sir William Blackstone considered, that there were strong reasons for supposing the Statutum De Tallagio non concendendo to be only a kind of abstract, or translation of the Confirmationes Chartarum by some contemporary hand, which might have been inserted at the end of the Great Charter in some of the monastical registers; whence it was transcribed into the histories of Nicholas Trivet and Walter de Hemingford, and thence copied by Henry Knyghton and Thomas de Walsingham. Its period in the Statute-books and Coke's Institutes is that of 1305-6, the 34th of Edward I., though it can never be of so late a date; since Humphrey Bohun, Earl of Hereford, whose pardon is granted in it, died December 31st, 1298, the 27th of the above Sovereign. In addition to this, the old historians who insert it, suppose it to have been granted by the King in Flanders in the close of 1297, when the similar French Charters were certainly sealed; of which, and which only, Matthew of Westminster takes notice. It is not to be found upon any authentic roll or record of the years 1297 or 1298, nor elsewhere; and perhaps the first time of its appearance in print, is in Thomas Berthelet's second part of the Old Statutes 1532, 8vo. fol. 39, since it is never noticed in the Abridgment of the Old Statutes, printed by Lettou and Machlinia, about the time of Edward IV., or probably earlier,



since the latest Statute therein abridged is the 33rd of Henry VI., Chap., xiii., 1454-55. In that same Abridgment, however, there is an abstract of the Statute *De Confirmatione Cartarum, alias dict' superadicio Cartarum*, in which the emphatical word *tieu*, or *tielx* is left out. It may be observed also, that notwithstanding the supposed Statute De Tallagio non concendendo, is construed to have abridged even the three allowable feudal aids permitted by Chapter xv. of King John's Great Charter, yet in 1306, actually in the very year when this Act is said to have passed, King Edward himself imposed an aid for knighting his eldest son; claiming it in right of his crown in the writs of summons for the Parliament which was to levy it. Lastly, it should be noticed that though the Confirmationes Chartarum allow the King and his heirs the custom of exported wool, skins, and leather, which is omitted in the supposed Statute De Tallagio, yet there is no doubt but that they remained in the crown for ages after Edward I. See Dyer's Reports, 43, 165. Coke's 2nd Instit. 59. From all these circumstances, then, the historical authenticity of this Act is at least doubtful, otherwise than as a contemporary Latin abstract of the two French Charters. As a question of law, however, it was very learnedly debated in the famous ship-money case of Colonel Hampden, in 1637; when the Judges determined it to be a separate Act of Parliament, though principally because it had been recited as such in the commencement of the Parliamentary Petition of Right, presented to Charles I., March 17th, 1627-28.

In 1299-1300, the 28th year of Edward I., was issued the last *Inspeximus of Magna Charta*, in a Parliament holden at Westminster, March 8th, the first Sunday in Lent; though it is dated on the 28th of that month. Its enactment is only slightly noticed by



Blackstone, but there are originals of it under the Great Seal, yet preserved in the Archives of the City of London, Durham Cathedral, and Oriel College, Oxford; the latter of which is quite perfect, and in a fair and legible hand. Sir William Blackstone was also informed of an extremely good copy in the Town-chest of Appleby in Westmoreland, with the seal: and which had the usual local mark of *Exam.' Westmerl.'* written on the fold near the seal. A similar copy is likewise preserved in the Archives of the Collegiate Church of Westminster, of which, however, the seal is lost, though the slit for the label is remaining. The instrument is now pasted on cloth for its better preservation, the fold cut being cut off, upon which was written the word *Wilts.* These originals generally agree with each other in their various readings, excepting the King's style, transpositions of words, and different spellings of the witnesses names. They also accord with the ancient entries of this Charter in the Red Book of the Exchequer at Westminster, and on the Statute and Charter Rolls in the Tower. A French translation of this Inspeximus will be found in the Harleian MSS. No. 5326.

Sir William Blackstone does not particularise the originals now extant of the *Inspeximus Forest Charter* dated at Westminster, March 28th, 28th of Edward I., 1300; but observes that some under the Great Seal, still remain in the Archives of Westminster, Durham Cathedral, and Oriel College, Oxford; the latter being somewhat worn in the folds, though still in fair preservation. There is also a contemporary entry on the Charter Roll for the year, No. 25, with which they generally agree; and a French translation will be found in the Harleian MSS. No. 5326.

The last *Confirmation Charter* of this Sovereign, dated at Lincoln, February 14th, 1300-1301, in the

29th year of his reign, is printed in the present volume, pages 374, 375. Of this instrument an original still remains preserved with the Furney Manuscripts, No. 8, in the Bodleian Library at Oxford, having the Great Seal in white wax still suspended to it, and measuring 9½ inches by 5¼; whence were printed the copies published by Sir William Blackstone and the Record Commission. There is also an ancient copy of it preserved in the Archives of Christ Church in Oxford; and four others in the Tower of London. Its contents are short, and the spirit of them is to provide for rectifying anything which had been enacted contrary to the intent of the Charters of Liberties: vide the Instrument itself, and the preceeding Essay, p. 47.

This instrument, observes Sir William Blackstone, seems to have been the final and complete establishment of the two Charters, after their having been fluctuating and endangered for nearly a century. The only circumstance which seems to have affected the Charters after this period, was when King Edward procured a bull from Clement V., annulling all the concessions which had been extorted from him, both concerning the forests and other liberties. It is recorded in Rymer's Fœdera, and is dated December 29th, 1305, his 33rd year, releasing him from the oaths and other spiritual engagements by which he stood bound to observe them. Dr. Brady and Carte, in their Histories of England, observe, however, that the only use he made of this freedom was to establish the Statute called *Ordinatio Forestæ*, which contained some regulations concerning Forest purlieus. Such features of this law as altered or amended the Charta Foresta, have been referred to in the Notes upon that instrument; but it may be observed, that Chap. v. absolutely revoked and annulled the deafforestation which had been so solemnly agreed to. It

nevertheless does not appear that any thing was subsequently attempted against the series of grants which was thus terminated.

Before closing these notices of the ancient reliques of the Charters of Liberties, a few additional particulars may be mentioned in illustration. They are in general written across the shortest way of the parchment; and, like the Statute Rolls and records of Chancery, seldom broken into separate paragraphs, though the manuscript entries of them are often so divided, and the Articles of King John's Magna Charta were originally written in distinct Chapters. The ancient Acts of Parliament, however, were always considered as one entire law, which passed either under the name of the place where it was made, as the *Statutes of Merton*; the nature of the subject, as the *Articuli super Chartas*; or the opening words, as the Statute of *Quia Emptores*. About the time of Edward II., such ordinances were frequently cited by the year of the King's reign when they were established, the particular acts being entitled and numbered into Chapters. The utility of such Sections was obvious, and perhaps they were originally adopted from the titles and heads used by the ancient Christians in their Greek Bibles, to point out the contents of the text, rather than to divide it. Many of the ancient Anglo-Saxon laws printed by Dr. Wilkins have such titles, and one original copy of Magna Charta, described on page 425. The use of distinct titles, however, appears not to have become general or regular until the time of Henry VII.; and they are even mentioned as one of the principal improvements introduced in William Rastell's *Abregement of the Statutys*, 1533. 8vo.

It has been already shewn that all the Charters of Liberties, and other instruments connected with them,

were drawn up in either Latin or French; the very general use of which in the Statutes of this nation, though many have attempted to explain, is still only imperfectly understood. The former, however, is the most common language of the present class of instruments; since even those which exist in French, were originally written or entered on the Record Rolls in Latin. The use of the two was, nevertheless, frequently indiscriminate, and in the Statute called Westminster Second, passed in 1285, the 13th of Edward I., Chapter xlix. is in French, whilst all the remainder is Latin. Sir Edward Coke attributes this to the two Chapters of William I., to which the latter Statute made additions, having been originally published in French: and Daines Barrington observes, that the laws were written in Latin when the Clergy were particularly concerned.

As to the adoption of Norman French in the English law, some rational causes for it are mentioned in the preceding Notes on the Great Charters, pages 239, 240; but it has also been considered an oppression of the Norman invasion, introduced that the English might transgress the law, and forfeit their estates through ignorance. Ingulphus, however, declares that William I. expressly recommended the Confessor's laws to his justices, in the same language in which they were written, that they might avoid that very consequence; and Matthew Paris states, that the King was particularly desirous of learning English, that he might know the law, and judge accordingly. Sir Nathaniel Bacon, from whose *Historical and Political Discourse of the Laws and Government of England*, Lond. 1760. 4to. page 101, these particulars are derived,—supposes, that anciently all verbal pleas were in the English tongue, as the Saxons understood no Norman; but that all records, &c. were made in

Latin, both as being a general language, and proper to the Clergy, who were the lawyers of the time. It has also been supposed, that for a considerable length of time, the laws of England were drawn up indiscriminately in French or Latin; and generally translated from the one to the other before they were published, when they appeared in both. Such is thought by some historians to have been the case with the renewal of the Anglo-Saxon laws, granted by William I.; since they have been published by Selden, Lambarde, and Wilkins, from the history of Ingulphus, both in the Latin, and in the Romance, or French. The two texts agree so closely as to prove them copies of each other; and it is argued that the latter was the original, which has been regarded as a full proof of William's intended extirpation of the English tongue, even whilst he established the laws of the Anglo-Saxons. There are, however, many circumstances which oppose this statement. At the period referred to, no law in France, was written in the colloquial and rustic Romance language; and its idiom and orthography are but little different to those used in England in the time of Edward I., and perhaps have really not a greater antiquity than that of Henry III., before which period, deeds or charters in French are not to be discovered.

The use both of French and Latin, though chiefly the latter, in the Charters and Statutes of England, seems to have continued at intervals down to 1488-89, the 4th year of Henry VII.; whence, to the present time, they have been written in English. The earliest appearance of the national tongue in any parliamentary proceeding, is in 1362-65, the 36th, 37th, and 38th years of Edward III.; for though the style of the Statute Roll is recorded in French as usual, it is ex-

pressed that the causes of summoning that Parliament were declared in English.

The popular, though erroneous notion, that the preceding Charters, and especially that of King John, were signed by the Sovereigns who granted them, yet remains to be rectified. A mere inspection of the various originals already described, will prove that there is no appearance of either name or signature: and the words of the Charter,—"Data *per* manum nostram;"—which seem to sanction the notion of signing, by being translated "Given *under* our hand," properly signify that the instrument was given *by* the King's hand, as a confirmation of his own act. In the times of the Anglo-Saxons, signatures were much more general than they were in the thirteenth century. Their regal Charters and grants were commonly single instruments attested by the crosses or signs of the King, and principal persons present when they were made:[a] which were either written by themselves, or by the scribe in columns, for such as were unable, to which a cross was affixed, and sometimes he drew even this

[a] Ingulphus states in the Saxon Charters, these signs were frequently of gold; and that in the fire at Croyland Abbey in 1091, some of the treasures then lost were the ancient Chirograph Deeds and Charters of the Mercian Kings, adorned with illuminations. That instrument, also, which purports to be King Æthelbald's Foundation-Charter of Croyland, about A. D. 716, is richly adorned and called the Golden Charter; but Wanley supposed it to be little older than the time of Henry II., and it is now considered that Saxon deeds of this description are manifestly spurious. The custom of signing with plain crosses, was, however, indisputable; and it has been supposed that the more splendid decorations were sometimes invented by the Monks to confer value upon their supposititious Charters. They were frequently led to this, merely in defence of their own property; for lands belonging to the Church being often held by prescriptive possession, without any instrument, when such territories were disturbed by the Normans, it has been thought that a Charter was sometimes devised or extended to prove the right. But instead of imitating the plainness of the ancient deeds, they were made more imposing by the modern custom of illuminating them, or attesting them with gold, azure, and vermillion, crosses, which now serve only to awaken an antiquary's suspicion.---*Quarterly Review*, xxxiv. 267.

symbol, the witness tracing it with a dry pen. The cross was regarded as an emblem of true faith in the parties to a deed, and frequently preceded the names of those who wrote for themselves; but hence arose the custom of illiterate persons still using such a mark.

Such was the practice until the time of Edward the Confessor, when these instruments were called Chirographa, or hand-writings; but after the Norman invasion the name was changed to Charta, and they were confirmed by an impression of a seal in wax for every person witnessing them, without any signature. The Charter of King Edward the Confessor, to Westminster Abbey, about A. D. 1065, has been supposed to be the oldest specimen of a sealed instrument in England; since, having been brought up in France, he adopted the custom long before it came into general use in this country. There are, however, genuine charters of the Saxon Kings Offa and Æthelwulf, between A. D. 757, and A. D. 857, yet preserved in the Abbey of St. Denis in France, sealed with their seals bearing their effigies; and the signet of Æthelwald, Bishop of Dunwhich from 830 to 879, was discovered some years since. But after all, seals appear to have been little used by the Anglo-Saxons, and were probably not required to authenticate an instrument. Even after the Norman invasion, also, they seem to have made but slow progress, since William I. frequently confirmed his Charters by a cross; and until the reign of Henry II., the use of seals hardly extended beyond the Greater Barons.

In the time of Edward I. seals had multiplied to so great a degree, that every free-man, and even the higher sort of villeins had their distinct devices, armorial ensigns being used upon them in the twelfth century, about the time of the Crusade under Richard I.; the earliest instance being said to be a seal of King

John when Earl of Mortaigne. But during this period, the custom of signing had almost entirely disappeared, and the English Sovereigns authenticated their Charters by their seals only, until the time of Richard II.; when royal signatures, called Signs-Manual, from being written by the King's own hand, came into use. It was a common law maxim, however, and as such remained upon the books, that sealing was of itself sufficient to authenticate a deed; though it was also essential that it should be delivered before witnesses, whence the expression in Magna Charta already referred to.

In addition to the various copies of the Charters inserted in the works above cited, may be mentioned the following

PRINTED EDITIONS OF MAGNA CHARTA.

I. MAGNA CHARTA. Anno Incarnationis Dominice millesimo quingentessimo xiiij, decimo sexto idibus Marcus. London 1514. *Duodecimo.* Printed by RICHARD PYNSON.

Although the various editions of this volume are supposed to contain some of the earliest printed copies of Magna Charta, yet it seems that it is the Confirmation of that grant by Edward I., to which the title alludes. The first edition of Pynson's Statutes, appeared in 1508, in which it was denominated, "Paruus codex, qui Antiqua Statuta vocatur:" the editions following were those of 1514, 1519, 1526, and 1527.

II. MAGNA CARTA. 1525. *Duodecimo.* ROBERT REDMAN.

The contents of this volume are similar to the preceding, with the addition of three new Statutes; which gave rise to the following expressions used in the colophon: "Ad laudem & gloriam cuncti potentis Beatæ Virginis Mariæ totaq; celestis curiæ, Paruus codex, qui Antiqua Statuta et *noua* vocatur, Explicit." This edition was followed in 1529 and 1539 by another,

with additional Statutes, in 16mo.; and in 1534 by the first Translation into English, with the title of "The boke of Magna Charta, with diuers other Statutes, whose names appere in the next lefe followynge, translated into Englysshe. Facessat Calumnia." The ensuing colophon gives the name of the translator: "Thus endeth the boke called Magna Charta, translated out of Latyn and Frensshe into Englysshe, by George Ferrerz." *Elizabeth Redman*, the widow of Robert, reprinted this translation in octavo without date, under the title of "The Great Charter, called in latyn, Magna Carta, with diuers old Statutes, whose titles apere in the next leafe, newly corrected." A similar reprint was likewise produced from the press of THOMAS PETYT, in 1542.

III. MAGNA CARTA, cum aliis Statutis, quorum Catalogus in fine operis. London 1531. THOMAS BERTHELET. *Octavo.*

This appears to have been the first part of a collection of English Statutes, which was again printed by Berthelet in 1532, 1540, and 1541. The second part was denominated, "Secunda Pars veterum Statutorum," and issued from the press of the same printer in 1532 and 1540; and from that of RICHARD TOTTELL in 1555-56. The contents of these volumes were similar to those of *Pynson's* edition of the Statutes, 1508.

IV. MAGNA CHARTA, cum Statutis qui vocantur, jam recens excusa, et summa fide emendata, juxta vetusta exemplaria ad Parliamenti rotulos examinata: quibus accesserunt nonulla nunc primum typis edita: apud RICARDUM TOTELUM. 12 Jun. 1556. Conferre and then preferre. Cum priuilegio ad imprimendum solum. *Octavo.*

Other editions of this collection were produced by Tottell, in 1557, 1559, 1565, 1574, 1576, and

1587. The first four of these were in English, and, as the work declares, were edited by "William Rastell, Serjeant at Law": they bore the following title; "A Collection of all the Statutes, (from the begynnyng of Magna Carta unto the yere of our Lord 1557,) which were before that yere imprinted." The two latter editions had a Latin title again, to this effect: "Magna Charta, cum Statutis, tum antiquis tum recentibus, maximopere animo tenendis, nunc demum ad unum typis edita per Richardum Tottell; anno domini 1576."

V. MAGNA CARTA et cetera Antiqua Statuta, nunc novitur per diversa exemplaria examinata et summa diligentia castigata et correcta. THOMAS MARSHE, 1556. *Octavo.*

VI. MAGNA CHARTA, cum Statutis tum antiquis tum recentibus maximopere animo tenendis, jam novitur excusa, et summa diligentia emendata et correcta. Cui adjecta sunt nonulla Statuta nunc demum typis edita. THOMAS WIGHT, 1602. Stationers' Company, 1608, 1618. *Octavo.*

Beside these Collections of Statutes, to which some edition of Magna Charta, or its Confirmation was prefixed, it was published at various other periods in a similar manner; as in the year 1543, by Berthelet, in 1564, by Henry Wykes, from 1579 to 1621, by Christopher Barker, and the practice is still preserved in several of the modern editions of the English laws. The most beautiful and accurate of these, however, is "The Statutes of the Realm, printed by command of his Majesty, George the Third. In pursuance of an address of the House of Commons of Great Britain." 1810. *Folio.* In this elaborate publication, as it has been already noticed, many Charters of the early Sovereigns are given by engraved fac-similæ as well as by printed copies, and the former convey to the mind a much more lively idea of the originals. These fac-

similæ are also inserted in the Reports from the Commissioners respecting the Public Records of the kingdom and their other publications. *Folio.* 1812, &c. The collection of Charters contained in the former work is superior to all others, since it exhibits a complete series of twenty of these grants, embracing six unknown to Blackstone, and extending from the Institutions of Henry I., to the last Confirmation of Edward I. They were also printed either from the originals themselves, or from contemporary authorities, with types representing the contracted characters, and the greatest attention to punctuation, collation, various readings, &c. &c.

In 1642 appeared Sir Edward Coke's "Second part of the Institutes of the Laws of England," which, being devoted to an explanation of the ancient Statutes, commenced with an excellent and extensive commentary on the Magna Charta of the 9th year of Henry III.; whence all subsequent explanations have been derived, and which has been chiefly followed in the preceding pages.

The separate printed editions of this instrument and the *Charta Foresta*, are very few in comparison with those of the former class; the following being the principal.

I. Magna Charta made in the ninth year of K. Henry the Third, and confirmed by K. Edward the First, in the twenty-eighth year of his Reign. With some short observations, from the Lord Chief Justice Coke's comments upon it. Faithfully translated for the benefit of those that do not understand the Latine. By Edw. Cooke, of the Middle Temple, Esq. London, 1680. *Quarto.*

II. A Declaration of the Libertyes of the English Nation, principally with respect to Forests. London 1681. *Quarto.*

III. English Liberties in the Free-born subject's inheritance; containing Magna Charta, the Charta de Fo-

resta, the Statutum non Taillagio concendendo, the Habeas Corpus Act, and several other Statutes with comments on each of them. By Henry Care, London 1719. *Octavo.* Fourth Edition.

IV. MAGNA CHARTA, engraven upon a *folio sheet*, as a facsimile of the original in the Cottonian Library.

Sold by J. PINE,[a] Engraver, against Little Britain in Aldersgate Street, and by the Booksellers of London and Westminster. Published in 1733.

This engraving is dedicated to the Trustees of the Cottonian Library, and is certified to be a correct copy by the keeper of that collection and other literary characters. The Charter is bordered by coloured Arms of the twenty-five witnessing Barons as already noticed, pages 273, &c. and a representation of the seal as mutilated by the fire at the above-mentioned library, is attached to the lower part. The copy in the British Museum, which is placed opposite the defaced original, is on vellum, having the border, seal, and Armorial Ensigns coloured and gilded. The number of such impressions cannot now be ascertained, and it probably depended upon the choice of the original subscribers, or presentations to public establishments, &c.; of which the following extract from the *Gentleman's Magazine*, Vol. IV., 1734, page 103, is a curious notice. "Tuesday, February 5th, 1734.—Mr. Pine, an eminent Engraver in Aldersgate Street, presented to the Court of Aldermen a copy of the Magna Charta granted by King John, from the Original in the Cot-

[a] John Pine was first known as an Engraver, by his series of prints of the Ceremonies at the revival of the Order of the Bath, by George I. published in 1725; though his reputation was established by his ten plates of the Spanish Armada tapestry in the House of Lords. He was made Blue-Mantle Pursuivant of Arms in December 1743, and died in 1756. See the Rev. Mark Noble's *Hist. of the College of Arms.* Lond. 1804. 4to. p. 395; and the Hon. Horatio Walpole's *Anecdotes of Painting*, by the Rev. J. Dallaway, Lond. 1826-28. 8vo. Vol. V. p. 263, where will be found his portrait, and his character as an Artist.

tonian Library, together with the Arms and names of the Barons then appointed to decide any cause between the King and the people, the whole being printed on a skin of vellum from a copper-plate, curiously engraved and embellished, and set in a frame and glass; for which the Court returned him thanks, and ordered him a present of twenty guineas."

The original price of this engraving was 10*s.* 6*d.* but as it is now not very common; it has sometimes been sold for upwards of £5 5*s.* There are, however, two other editions of the same plate, differing only in the Engraver's address beneath; which are less rare than the first. The imprint of one is, "Sold by J. Pine, Engraver, in Old Bond Street, near Piccadilly, and by the Booksellers in London and Westminster;" and the other, published after his death, is marked, "Sold by R(obert) E(dge) Pine, Albemarle Street, Piccadilly." With the original plate appeared a pamphlet of 8 pages, containing the Great Charter in Latin and English, probably printed from Tindal's edition of Rapin's History of England; and designed to facilitate the reading of the fac-simile; which, as it was observed by Sir William Blackstone, was not fitted for general perusal on account of the antiquity of its character.

Since the appearance of this engraving, several accurate and beautiful fac-similæ of the Charters of Liberties have been executed for the Record Commissioners by Mr. James Basire, as already referred to in the preceding list. To these plates are added copies of the several instruments in letter-press, printed line for line and letter for letter, having types cast to imitate the numerous contractions of the originals, which both facilitate the reading of them, and induce the study of the ancient records of England. Under this class of copies of Magna Charta, may be mentioned

a lithographic fac-simile, published in 1819, of the preliminary Articles and the Cottonian Charter, taken from the engravings of Basire and Pine, and published with a corresponding sheet of letter-press, containing a translation of the Charter, and some general Historical Observations and particulars.

But notwithstanding these printed editions of the Great Charter, its contents, nature, and history, were so little known previously to the appearance of Sir William Blackstone's excellent and interesting volume, that he commences it by observing, that no full or correct copy of King John's Magna Charta was extant excepting Pine's: though he might have added Dr. Brady's, Tyrrell's, and the more popular one in Rapin, published in 1732. He states also, as it has been noticed in the commencement of this Article, that even the Charters of Henry III., printed in the Statute-books, were not taken from originals, but from the Inspeximus grants of Edward I.; which want of authentic materials, or of making use of such as were in existence, had often led the best historians and antiquaries into gross and palpable errors. To point out and remedy these, appeared

V. THE GREAT CHARTER, and the CHARTER of the FOREST, with other authentic Instruments: to which is prefixed an Introductory Discourse, containing the History of the Charters. By WILLIAM BLACKSTONE, Esq. Barrister at Law, Vinerian Professor of the Laws of England, and D.C.L.

OXFORD, at the Clarendon Press. M.DCC.LIX. *Quarto.*

This beautiful and rare edition of the English Cartæ, is usually supposed to have been executed under the direction of the celebrated Baskerville; but was actually produced under the superintendance of Dr. Prince, and constituted one of these volumes,

which afforded him most pleasure in having printed. The elegance of the typography is very great, and Mr. Chalmers, in his *Biographical Dictionary*, thus mentions it under the article Blackstone. "In November, 1759, he published a new edition of the Great Charter, and Charter of the Forest; which added much to his former reputation, not only as a great lawyer, but also as an accurate antiquary, and an able historian. It must also be added, that the external beauties of the printing, the types, &c. reflected no small honour on him, as the principal reformer of the Clarendon Press, whence no work had ever before issued, equal in those particulars to this." It is inscribed to the Earl of Westmorland in an engraved dedication, surmounted by his armorial ensigns. The historical Introduction immediately follows, and occupies 76 pages, this is succeeded by the Charters of John, Henry the Third, and Edward the First, and other statutes connected with them, contained in 85 pages more. This part of the volume is decorated with ten engravings of the royal seals attached to the instruments, of their original size: the whole of the initial letters used in the work are copper-plate engravings of various public buildings in Oxford; and two historical vignettes are placed on pages lxxvi. and 73. The contents of this volume were reprinted in Sir William Blackstone's Law Tracts, Octavo 1762, Quarto, 1771; the former of which contains some few revisions and additions.

Next to the volume of Sir William Blackstone, may be noticed the short, but exceedingly curious and learned remarks on Magna Charta, contained in the Hon. Daines Barrington's *Observations on the more ancient Statutes, from Magna Charta to the 21st year of James I.*; the volume being originally published in 1766, Quarto. It was the first work of its author,

and has always maintained its rank, having passed through several editions, each receiving some improvements until that of 1795. The book originated in the perusal of the older and more useless English Statutes, with a view to their consolidation or repeal, a scheme for which is contained in an Appendix to it; in reading these many observations occurred on the laws of every reign, as they illustrated the manners and history of the country when they were published. These remarks, however, were confined to the acts of the thirteenth and three following centuries, which were compared with the contemporary Statutes of most other European nations, and found to be considerably superior.

VI. A History and Defence of Magna Charta, containing a copy of the Original Charter at large: with an English translation; the manner of its being obtained from John; with its preservation and final establishment in the succeeding reigns. London 1769. *Octavo.*

VII. An Historical Treatise on the Feudal Law, and on the Constitution and Laws of England, with a Commentary on Magna Charta. By Francis Stoughton Sullivan, LL.D. London: 1770. *Quarto.* 1772, 1776. Edit. by Dr. Gilbert Stuart, 1777.

VIII. The Charters of London complete, with Magna Charta and the Bill of Rights, with explanatory notes and remarks. By John Luffman. Lond. 1792. *Octavo.*

IX. Magna Carta, printed in Letters of Gold, by John Whittaker.

Magna Carta Regis Johannis, xv. Die Junii, Anno Regni xvii. A. D. m.ccxv. Londini, apud Johannem Whittaker, m.dcccxvi.

Conventio inter Regem Johannem et Barones, A.D. m.ccxv. Londini, apud Johannem Whittaker, m.dcccxvii. *Folio.*

This very splendid edition of the Great Charter was projected about fourteen years since by Mr. John

Whittaker, of Westminster, for the display of a beautiful invention of Printing in Letters of burnished Gold; and a small portion of the preceding pages was originally intended as a popular introduction to it, though the design was afterwards laid aside, and the materials have since been extended to the present volume. It was at first intended to have printed the Cottonian Charter for the above edition, but it appears from a notice attached to it, that the original was that deposited in the Archives of Lincoln Cathedral, with some of the abbreviations filled up: a passage taken from the Introduction to the "Statutes of the Realm," is also inserted in support of the authenticity of the Lincoln copy; which has been referred to in the former part of this Article. The present volume consists of seventeen leaves printed on the recto only, in black-letter; which, whilst it is exceedingly well calculated for shewing the beauty of the Golden Typography, gives it at the same time a rich hue of antiquity combined with much delicacy of form and character: the text of each page measures $7\frac{5}{8}$ inches, by $5\frac{3}{8}$. The work is dedicated to his present Majesty, when Prince Regent, in English, but the remainder of its contents are wholly in Latin. Some copies of this superb publication were printed upon purple satin, and others on white, or purple, vellum, the size of a super-royal folio. These were decorated with the most elegant emblematical and heraldical designs, chiefly by Mr. Thomas Willement, introducing the arms of the twenty-five Barons, who became sureties for the due performance of this Charter. In addition to these decorations, which occupy the borders of the various pages, the portraits of the Prince Regent and King John, painted on vellum, were sometimes placed opposite the dedication and title pages. This work was also printed in folio of a smaller

size, on Bristol drawing-paper, with illuminated initial letters; and to these was attached an additional page, containing the names of those Barons whose arms were painted in the large edition. At the end of the Charter is the Covenant of security between King John and his Barons; and the arrangement of the whole volume is as follows: Title, Dedication, Names of the Barons, Magna Charta 11 pages, Title to the Covenant, Covenant 2 pages.

Such, then, are the principal Manuscript and Printed copies of the Charters of Liberties; the most important and extensive of which, though posterity has generally connected them with the name of King John, were in reality passed under the

SEAL OF HENRY THE THIRD.



MEMOIR

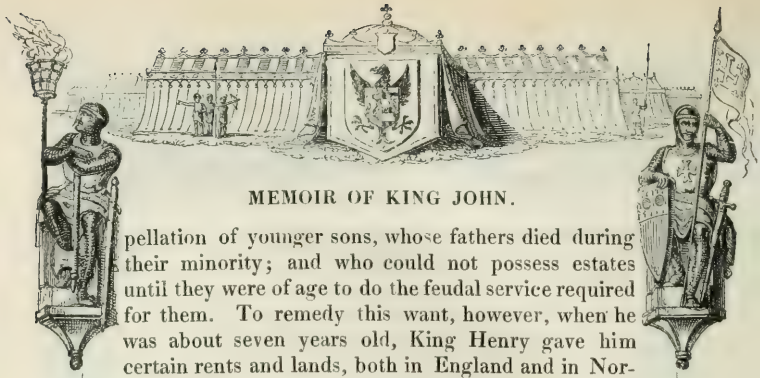
OF

John, King of England.



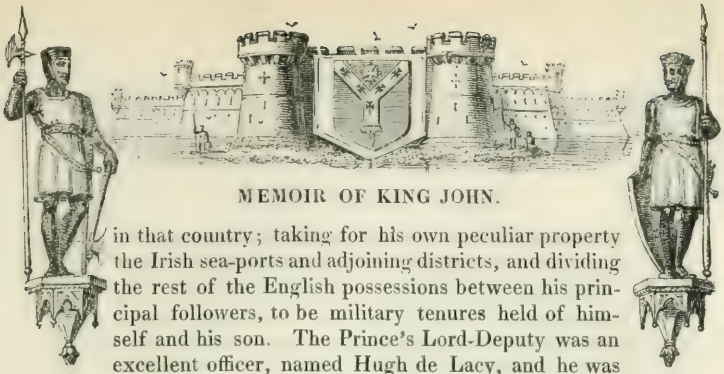
THE life of this Monarch in almost every point of view, was marked with an extraordinary fatality of ill-fortune, and disturbed by perpetual storms from his discontented subjects. The offspring of a weak, though valiant Sovereign, it would seem as if the courage of Henry had descended with his kingdom to Richard; whilst his misfortunes and his vices became the portion of John. With all his faults, however, and with a far greater degree of popular hatred than is attached to the character of any Prince in the extended line of English Sovereigns, his life and reign form a subject of very considerable interest: and from their intimate connection with the fan us story of this volume, the following rather copious Memoir, has been added to illustrate and to complete the narrative.

JOHN, afterwards King of England, was the fifth son of Henry II. surnamed Plantagenet; and he was born on Saturday, the 24th of December, 1166, in the King's Manor-house at Oxford, his mother being Eleanor, daughter and heir of William, ninth Duke of Acquitaine. From the ample provision which Henry made for his elder sons, and the limited possessions devolving upon John, he received from his father the surname of *Sans-terre*, or Lack-land: the usual ap-



pellation of younger sons, whose fathers died during their minority; and who could not possess estates until they were of age to do the feudal service required for them. To remedy this want, however, when he was about seven years old, King Henry gave him certain rents and lands, both in England and in Normandy. Near the same time, also, as well with the view of improving the young Prince's fortunes, as of securing another territory to the throne of England, a marriage was formed for him at Montferrat in Auvergne, with Alice, eldest daughter and coheir of Humbert II., Earl of Savoy; through whom, had it not been for her untimely death and the re-marriage of her father, he would ultimately have enjoyed the sovereignty of that province.

Pope Urban III. having granted to Henry the liberty of crowning one of his sons King of Ireland, that Sovereign in a Great Council held at Oxford in May 1177, bestowed it upon John; who was knighted at Windsor, the Pontiff's gift being presented to him, consisting of a coronet of peacocks feathers interwoven with gold. After the subjugation of Ireland, in 1175, Henry made a treaty with Roderic, King of Connaught, that he should reign in that country under the English crown, and possess his own lands in peace, as he did before the invasion, so long as he paid tribute, and performed his due services; whilst his authority was to extend over the whole island, excepting the proper lands of Henry and his Barons, including Dublin, Meath, Wexford, and Waterford, to Duncannon. But though Roderic gave up one of his sons as a hostage for his good faith, the natives of the country seized every opportunity of revenging themselves upon the English, &c., who were in great part soldiers living by plunder and hostility. Upon the nomination of John as Lord of Ireland, Henry cancelled his former grants



in that country; taking for his own peculiar property the Irish sea-ports and adjoining districts, and dividing the rest of the English possessions between his principal followers, to be military tenures held of himself and his son. The Prince's Lord-Deputy was an excellent officer, named Hugh de Lacy, and he was attended by Giraldus De Barri, the famous historian, and a powerful force, with which he arrived in Ireland, March 31st, 1185: but his counsellors and favourites were unhappily Normans, who held the Irish chieftains and the Welsh settlers in equal contempt. He was supported by the Archbishop of Dublin and the Irish nobility; but the ridicule with which himself and his attendants treated the Milesian chiefs, by deriding their dress and plucking their beards, and their offending the Welsh adventurers, by removing them from the garrison-towns to serve in the marches,—were fatal to this Prince's establishment in Ireland. A continuance of these imprudent measures produced him numerous and powerful adversaries; his Council was inflamed and divided, and, after losing much treasure, several of his best leaders, and the flower of his army, Henry recalled him to England uncrowned, on the 17th of December.

This was a display of his folly and weakness, but the first actual stain upon John's character, was that insurrection against Henry II., which all his legitimate sons alike partook of; though, perhaps, this Prince might be considered the most guilty, because he was the most beloved of his father. The King had indiscreetly raised them to honours and power, before they had ceased to be children, and they disputed between themselves as well as with him; though for a time there had been a suspension of hostilities by the death of Henry, the eldest, in 1183, who had been made King. Richard and Geoffrey, however, still continued

their rebellion, until the latter was killed in a tournament at Paris, August 19th, 1186; after which the former concluded a truce with his father, and aided him against the King of France, until he began to hear reports, and to suspect that Henry intended the crown of England for John. In a conference on Richard's claims before the French Sovereign, he asserted his right to the succession, to which his father made an evasive answer, whereupon he instantly offered his homage to Philip, who received it, and invested him with the possessions of King Henry in France. Hostilities soon after recommenced between Richard and his father, who retreated before him; but still trusting in the fidelity of John, he caused the Seneschal of Normandy to swear that in case of his death, the fortresses of that province should be delivered to the Prince. At length, however, King Henry was persuaded to meet Philip of France on a plain near Tours, when a peace was concluded, by the former yielding to every demand which was made upon him. But he had previously stipulated, that a list should be given him of the Barons who had joined the French King, at the head of which appeared the name of his son John. He read no more, but returning the scroll departed for Chinon, where he sank into a deep melancholy, which was followed by a violent fever, wherein he cursed all his children, and died in July, 1189, though he would never be persuaded to retract his execrations.

At this time, although John's revenues might have been considerably increased by the favour of his father, he was possessed rather of titular, than of real power: which consideration acting on the mind of Richard, who next succeeded to the throne, he bestowed upon him the Counties of Cornwall, Dorset, Nottingham, Derby, and Lancaster; the castles of

Marlborough and Lutgarshall; the towns of Wallingford and Tickhill, and several other lands, and seemed almost to admit him as a sharer in his kingdom as well as in his affections. The generosity of Richard, however, met with an ungrateful return from John in his notorious insurrection against him, whilst the former was engaged in the wars of Palestine, and imprisoned in Austria. But these proceedings were the occupation of years, since they appear to have commenced when the right of Arthur, Duke of Bretagne, and son of John's elder brother, Geoffrey, was first sanctioned by Richard, in his treaty with Tancred, King of Sicily, in 1189; and also in his letters to Pope Clement VII., wherein he was declared heir to the crown.

Upon Richard's departure on the Crusade, the government of England was committed to the Chancellor, William de Longchamp, Bishop of Ely; a Norman of obscure birth, and a man of equal talent, industry, and immorality. This minister was secretly directed by Richard to support the cause of Arthur, and even to engage the assistance of William, King of Scots; though it has been pretended that the Chancellor's only object in this treaty, was to perpetuate his power in England by the succession of a minor. The confederates of John, however, who were with Richard at Messina, soon acquainted him with Longchamp's real purposes, and he determined to make use of every effort for his removal.

After much exertion this was effected about the period when the nation was anxiously looking for the arrival of the Sovereign, and when it was discovered that he had been sold by the Archduke Leopold to Henry VI., Emperor of Germany, for the sum of £60,000 to be paid out of his expected ransom. This opportunity John seized to commence his designs

upon the crown; for which purpose he first hastily travelled to Paris, where he resigned to Philip a part of the English possessions in Normandy, and, doing him homage for the rest, returned again and assembled an army to support his designs. He besieged and took the Castles of Wallingford and Windsor; and, coming to London, he gave out that Richard was dead, and required Walter, Archbishop of Rouen, the Chief Justiciary, with the Council of Regency, to swear fealty to him, and proceed to his coronation. But on the contrary they not only disregarded his assertions and desires, but assembled their forces, repulsed his band of foreign soldiers, and at length compelled him to agree to a truce, when he returned again to his confederate, Philip of France.

In the meantime a treaty was in progress for the restoration of Richard, by a ransom of 100,000 marks of pure silver, and hostages to the amount of 50,000 more; though his deliverance was delayed by the intrigues of Philip and John. When he was informed of these, he was at first shocked and looked gravely; though presently recovering his cheerfulness, he said, "My brother John is not made for conquering kingdoms; for he is not a man to succeed by force, where force is opposed to him." When the ransom of Richard had been concluded on, the King of France sent a letter to Prince John, telling him to take care of himself, "the devil being unchained"; and with some difficulty and murmurs the amount was raised in three collections throughout England. It was then entrusted to Eleanor of Acquitaine the King's mother, and the Archbishop of Rouen, who set out with it for Germany a short time before Christmas, in 1193; upon which Philip and John are accused of having made their last great effort for the King's farther detention, by offering the Emperor a larger sum than

that which had been fixed for his ransom, to detain him only one year longer, or paying him £20,000 a month for his imprisonment. It is probable that the avarice of Henry would have agreed to this, had not several Princes of the Empire, who were securities to the covenant, insisted upon its fulfilment, and King Richard was set at liberty at Mentz, on February 4th, 1194.

He landed at Sandwich on Sunday, March 20th; and after having taken possession of John's Castle at Nottingham, he held a Council there, consisting of Queen Eleanor, and fifteen Prelates and Barons. On the second day John and his adviser, Hugh, Bishop of Lincoln, were accused of treason, and summoned to appear before the King and his Court within forty days, or to be outlawed and forfeit their estates. Neither of them, however, attended at the term; but as the Prince was then in France, and held lands in Normandy, three Barons were sent over to Philip as his lord, to demand judgment against him for contempt. At length, Richard himself led an army into France; when John, having in the interim secured the powerful intercession of Queen Eleanor, met him on his landing, threw himself at his feet, confessed his offences, and with many tears implored his forgiveness: upon which the King was so much affected, that he raised him from the ground, kindly embraced him, and received him again into his favour. He, nevertheless, did not immediately restore to him his possessions; and observed concerning him, "May I as easily forget your offences, as you will that you have ever offended."

Such, then, were the rise and termination of John's memorable rebellion against Richard; but in the wars with France which occupied that Sovereign till his death, his brother is said to have rendered him

many noble services. To this conduct may be attributed the King's favourable testament at his decease; since he bequeathed to him all his dominions and three-fourths of his treasure, and required all present to do him homage.

As John was now at the summit of his hopes, to prepare against all attempts which might be made to oppose him, he engaged in his cause Hubert Walter, Archbishop of Canterbury, William Marshall, and his mother, Eleanor of Acquitaine. Having by these zealous friends secured for a time the realm of England, the King next proceeded to France, in order to seize upon his brother's possessions in that country: and partly by deeds of gift from Eleanor, who was acknowledged to be rightful Lady of Acquitaine and Poictou; partly by the treasures of Richard which he found there; and partly by the forces which he carried with him, he procured himself to be presented with the ducal sword of Normandy, and to be crowned with a coronet of golden roses in the Cathedral of Rouen, by the hands of Walter the Archbishop, April 25th, 1199.

Thus was he succeeding in France, when William, King of Scotland, sent to demand of him the Counties of Northumberland and Cumberland, with the appurtenances belonging to them: but John's agents were too politic to involve his infant cause in war, and therefore dismissed the ambassadors with the assurance, that when he returned from France William should receive every satisfaction. On May 25th, John landed at Sherborne in Sussex, after having burned the town of Mans in France, to which may be attributed much of his success there. The day following his landing he proceeded to London, and was crowned at Westminster on Thursday, May 27th, being Ascension-day, by Hubert, Archbishop of Canterbury.

It was at this first ceremony, in which John thrice received the Sacrament, that the Archbishop pronounced his memorable speech, which is supposed to establish the ancient practice of the election of the Sovereigns of England. It was evidently a composition of sophistry and error, which was as likely to injure the King's cause as support it; and, as it subsequently appeared, was even against the Prelate's own sentiments. As recorded by Matthew Paris the ceremony was as follows:

"Then came unto him the assembly of Archbishops, Bishops, Earls, and Barons, as well as all others who should be concerned in his Coronation; whereupon the Archbishop, standing in the midst of them all, said, 'Hear ye, universally! Your discretions ought to understand, that none can upon any previous reason succeed unto the possession of this kingdom, excepting he be first unanimously elected for his own eminent virtues by the whole of the people, having invoked the grace of the Holy Spirit; and then anointed after the similitude and likeness of Saul the first King, whom the Lord placed over his people, although he was neither son to a King, nor descended from the royal line. Afterwards, in like manner, was elevated David, the son of Jesse: the one because he was strong and fitted for the royal dignity, and the other because he was pious and lowly; that those in the kingdom, who were altogether eminent for their magnanimity, might have also the power and dignity. Therefore, if out of the race of the deceased King, one is more excellent than another, we should quickly and readily consent to his election; and we have uttered these things in favour of the noble Earl John,—who is here present, the brother of our most illustrious King Richard, who deceased without any heir of his body,—whom, he being valiant, prudent, and of manifest nobility, as well by reason of such merits, as by his royal blood; we do now, calling upon the Holy Spirit of Grace, unanimously consent to elect for King.'—Now the Archbishop was a man of great soul, and stood in the kingdom as a pillar of singular

firmness and incomparable wisdom: Notwithstanding, there were some of the assembly who much doubted of this which he had spoken, knowing that he had not dissembled so without a reason. But Earl John and all the rest accepted what he had said; and the said Earl was elected and received in the realm, they shouting and saying, 'Long live the King!' However, Hubert was afterwards questioned as to wherefore he had said these things, to which he replied, that he had a presage on his mind to conjecture, and was even made sure by certain matters, that John would at length destroy the crown of England, and overthrow the realm into great confusion: and that therefore he had boldly affirmed, that the Prince came not to the throne by hereditary succession, but only by the election which ought to be made."

But few remarks will be required to shew that this passage is not at all sufficient to prove the rights of popular election to the English crown. The chief arguments of those who support it are, that the Archbishop declared it on so solemn an occasion without any opposition; and that the elected Prince was silent, when he must have been offended at so bold an assertion, if he had not been satisfied that the people had such a right. To this it may be answered, that notwithstanding Hubert's declaration, the states never appear to have consulted on John's election, since he was crowned immediately upon the people's exclamations; and it is also to be remembered that he had some claim to the crown by his brother's will, and that all England had already sworn fealty to him. The Archbishop's examples, also, were not those of former elected Kings of this realm; but were more fitted to establish a new right than prove the antiquity of one. Nor were the private reasons for his speech at all required, if the right had been established; but perhaps the real motives for this address were, as Hubert was entirely in John's interest, to secure for him the crown to which the Duke of Bretagne had some

pretensions, though the English had accepted John. It would, therefore, have been improper to have claimed the throne for him by hereditary right, since the question between him and Arthur had not been entirely decided; and it would have been contrary to John's interest to have revived it. But ascending to the throne by a sort of election, was advantageous to him; not only as giving him a title to his coronation, but also by securing to him the support of the people, who were more likely to maintain their own choice, than a disputed hereditary claim. However, in a law for regulating the fees in Chancery, published in the June following John's coronation, he united both his claims; stating that God had raised him to the crown by hereditary right, through the unanimous consent and favour of the Clergy and the people. On the very day of his coronation, John shewed his gratitude to those who had most contributed to his quiet accession, by making the Archbishop Chancellor of England, and creating William Marshall, Earl of Pembroke, and Geoffrey Fitz-Piers, Earl of Essex.

Almost every thing connected with this Prince seems matter of doubt or dispute, and even the very time when his reign began to be computed, has been the subject of discussion and uncertainty. King Richard died on Thursday, April 6th, 1199, which is the ordinary period assigned for the accession and date of John: but notwithstanding his natural right to commence from that time, it appears that until his coronation, the Barons considered him as only Duke of Normandy; and perhaps he had neither the style of King, exercised no acts of royal authority, nor was entitled to receive the regal revenues. His reign and privileges, therefore, actually began from May 27th, the day when he was crowned by consent of the Ba-

ronage;[a] because, not being next heir in point of descent,—a subject quite undetermined at this period,—he was not regarded as King until he became so by right; and those documents, the dates of which fall between April 6th, and Ascension-day in each year, have been referred to a wrong period of time.[b]

John had thus far proceeded in safety in his own country, but his opposers in France were making every effort to check his progress in Normandy. At this time the Duke of Bretagne was about thirteen years old, and his mother, Constance, finding him deprived of his English possessions, entreated the French Sovereign to take up arms in his cause, and secure to him his rightful inheritance in both countries. Philip, like the other French Kings, having long desired pos-

[a] The reign of Edward I. was also influenced by a similar circumstance; since, though it is usual to calculate it from November 16th, 1272, the day of the death of Henry III., yet it did not actually commence until the 20th, when at the funeral of the late King at Westminster, the Earl of Gloucester came forward before the Prelates and Nobles attending it, and, laying his hand on the royal body, swore fealty to Prince Edward. His example was followed by all the surrounding spectators, and the new Sovereign was immediately proclaimed as King of England.

[b] The calculation of his actual year thus becomes a matter of great difficulty and uncertainty, to obviate which several tables have been compiled; and the most accurate of them, by Mr. Nicholas Harris Nicolas, will be found printed at the end of this volume. This doubt concerning John's true accession, has caused a passage in Roger de Hoveden's History to be misunderstood and suspected: but the common error of computation, was originally pointed out in the "First Report of the Committee appointed to search for documents on the Dignity of a Peer of the Realm," presented to the House of Lords in July 1819: pages 55, 455, *Note* 20. The subject was afterwards farther illustrated in the Quarterly Review, Vol. xxxiv. page 297, and subsequently in the Gentleman's Magazine, Vol. xcvi. part ii. page 27, wherein the table was inserted, which is attached to the present work. A statement of this curious circumstance was then printed in Vol. xxii. part i. of the Archæologia, in a very interesting paper by Mr. Hardy, consisting of an Itinerary of the movements of King John's Court, from his coronation until his death, compiled from the Tower record Rolls; an excellent account of which, with a revision of some inaccuracies, will be found in Vol. II. part ii. of the Retrospective Review, New Series, pages 224-229.

session of the English provinces in France, broke with this pretence an unconcluded truce which he had made with Richard I., raised an army, and had already secured to Arthur, Anjou, Evreux, and Maine. He was proceeding to invade Normandy, when King John arrived in that province, June 18th, 1199, and soon after concluded a truce with him until August 16th, when they were to meet and arrange their differences. In this interim, which seems to have been proposed by Philip to deceive the King of England, the latter was engaged by the funeral of his sister, Joanna, Countess of Thoulouse and Queen of Sicily; and by his consequent inattention to the French King's movements, he gave him opportunity to take possession of those places in France which had formerly appertained to John. At the appointed interview, however, which was held near Gaillon, Philip conducted himself with so much haughtiness, and made such extraordinary demands both for himself and Arthur, that John rejected them, and war immediately commenced between them.

In the months of September and October, Philip seized upon several places in Le Maine, in the name of Arthur, keeping some himself and destroying others; upon which William de Roches, the general of the Duke's forces, began to suspect the King's selfish views: he therefore by a stratagem conveyed Arthur to Mans, of which he was governor, and concluded a treaty for him with John; whereby Constance and her son withdrew from Philip's Court, and became reconciled to the King of England. Had this alliance continued, the power of John would have been complete and the ambition of France entirely defeated: but the very next day the governor was informed of the King's design to destroy his nephew, whereupon he escaped with the Duke and his mother, to An-

gers, and restored them to the power of Philip Augustus.

At length, at the solicitation of the Cardinal Peter of Capua, the two Sovereigns agreed to a suspension of hostilities, and afterwards to a peace concluded on May 23rd, 1200; when Philip acknowledged John for the rightful heir of his brother, and made Arthur do homage to his uncle for the Duchy of Bretagne. In return, King John resigned Evreux to Philip; paid him 20,000 marks as a Relief for his succession; and gave his niece, Blanche of Castile, in marriage to Louis the Dauphin of France, with several rich fiefs as her dowry. These proceedings, however, were greatly disliked by the English Barons, and Philip, Earl of Flanders, who had revolted from the French King's army to that of John; but the discontent was greater when a tax was laid upon the plough-lands of England to furnish the sum required by his compact. The assessment was opposed by Geoffrey, Archbishop of York, who excommunicated the collecting-officer; and it was not until both ecclesiastics and peers interfered as mediators, that the differences between the King and his subjects were concluded.

As the English Barons had already made a demand for the privileges of Magna Charta, which were not yet granted, in the year 1201, at the Feast of Whitsuntide, May 13th, they refused to attend John into France for the consummation of the Dauphin's marriage, until the liberties they desired should be confirmed. The King in return, seized upon their castles, and with Isabella of Angoulême, whom he had lately married, left England for Paris, where Philip entertained them in the most magnificent manner.

It seems to have been King John's fatal mistake, that in almost every action of his life, some friend was to be alienated from his cause, or some new enemy

was to be made. The Queen whom he last received to the throne, and with whom he was a second time crowned at Westminster, on Sunday, Oct. 8th, in the year 1200, was Isabella, daughter and heir of Aymar, Earl of Angoulême; for love of whom he divorced Hadawisa of Gloucester, as being unlawfully related to him. Isabella, however, had been previously contracted to Hugh Brun, Count of La Marche, who became so enraged by John's conduct that he joined the cause of Arthur, and received the support of Philip to proceed against the English territories in France, in which expeditions they were very successful. At this time King John's mother, Eleanor, was dwelling in the Castle of Mirebeau in Poictou, of which both the defences and garrison were of inconsiderable strength; so that when it was attacked by her grandson, Arthur of Bretagne, and the Barons of the province, the gates were easily forced, though the Queen retiring into the keep refused to capitulate, and found means to acquaint King John with her situation. He hastened to her relief with an army of English and Brabanters, and on August 1st, 1202, the besiegers advanced to meet them; when they were overcome by the King's superior force, and, retreating to the fortress, were all either killed or made prisoners. In this battle King John captured many Barons, and upwards of 200 Knights, who were loaded with irons and sent to various prisons both in France and England; and he also got possession of his two greatest enemies the Count of La Marche, and the Duke of Bretagne, then sixteen years old, whom he placed under a strong guard in the Castle of Falaise.

Perhaps it is from the King's conduct after this battle, that his memory receives its darkest stain; since it is affirmed by the Annals of Margan, that twenty-two of his captives and hostages were starved to

death in Corfe Castle, and that several were executed, but above all that he murdered his nephew Arthur. Of romantic rumours upon this circumstance, of which there is now no proving either the truth or the falsehood,—there are several; but of certain narrative nothing can be stated, but that the Duke died suddenly whilst in the custody of King John. At any rate, however, his death does not appear to have been originally intended: since Matthew Paris relates, that some time after his capture the King went to Falaise, and ordering Arthur to be brought before him, addressed him with some kindness; and remonstrating with him on the folly of trusting to Philip, offered him great honours to quit the French Sovereign and adhere to himself. To this he replied disdainfully, by demanding all the dominions of which Richard I. had died possessed, as his right by inheritance; swearing that John should never enjoy peace until he restored them. The King left him thoughtful and incensed, and he was soon after removed to a dungeon of the New Tower in the Castle of Rouen, under the custody of Robert de Vipount, from which in a few weeks he disappeared. Matthew Paris adds, "the manner of his death is unknown to all. I wish it may not be as envious fame reports"; implying that he was made away with by his uncle's orders.

Another account of Arthur's death, is that given by Ralph, Abbot of Coggeshalle, who is supposed to have died in 1228, which more resembles the story as dramatised by Shakspeare. It states that whilst the Prince was at Falaise, the nobles of Bretagne and Anjou, made great offers for his liberty, which being refused they combined anew against King John; whereupon he was advised to castrate and put out the eyes of Arthur, because he would have no rest whilst the Duke was alive and in a capacity to govern. This

he at length yielded to, and three trusty servants were commissioned to see it performed; but two of them, abhorring such cruelty, concealed themselves, though the third went to Falaise, and delivered his orders to Hubert de Burgh, the King's Chamberlain, then Constable of the Castle, at the barbarity of which he and the whole garrison were greatly concerned. The Prince for some time wept, until at last, being transported with rage, he with his own hands fell upon him who had brought the message, but as they were grappling together, Hubert de Burgh and the guards ran in and parted them. They subsequently not only refused to execute the King's commands, but consoled the young Arthur as much as they might; though, to escape John's anger and take away the hopes of the Duke's adherents, they caused it to be rumoured through the province, that he had died under the execution of the sentence. The Bretons were thereupon so exasperated, that they swore for the future never to desist from making war upon the King of England for his cruelty, and to quiet them the truth was at length acknowledged. Upon this John's fears returned to him, since King Philip and the Bretons pressed for Arthur's restoration; and thinking he should have no tranquillity so long as Arthur lived, he resolved to despatch him privately as soon as he was removed to Rouen, where it is unknown how he died.

A third, and the most popular and particular account of this matter, is given in a Latin heroic poem, written by Guillermus Brits, a native of Bretagne, about the year 1230, and called the Philippidos; because it recites the actions of Philip II. of France, addressed to his son. It is, however, to be received with much caution, as it is evident, from the narrative itself, that very few persons could have been trusted with the secret. It states that King John solicited

some of his confidants, and in particular William de Bray, to murder his nephew; but none would undertake it, and the Baron replied he was of gentle blood, and not an executioner. Upon which the King, considering the importance of the matter, and the reproach which its discovery might bring upon him, resolved to trust the secret to as few as possible; and therefore going one night in a boat beneath Rouen Castle, he ordered Arthur to be brought down to him in the vessel, where, notwithstanding the Duke's entreaties, he stabbed him twice, cut off his head, and threw the body into the Seine three miles below the prison. It was then reported, that the Duke had been drowned in endeavouring to escape from the Castle which overhung the river.

The Annals of Margan, a Cistercian Monastery in Glamorganshire, which are also a contemporary authority, state, that some time after Arthur's imprisonment, the King came much intoxicated to Rouen Castle, and having murdered him there with his own hand, he caused a great stone to be fastened to the corse, and had it thrown into the river. It was soon after dragged out by a fisherman, when some persons having recognised it, the remains were deposited in the Abbey of St. Mary des Prés.

Lastly, Matthew of Westminster, who did not flourish until the middle or latter end of the thirteenth century, says on this subject,—"Throughout France and the Continent, John was suspected by all to have killed Arthur with his own hand. Hence many, averting their minds from the King, pursued him till his death with an inexorable hate. The King of France charged him with the murder." At all events, the latter part of this assertion is true; for the Bishop of Rennes accused John of Arthur's death at Paris, and Philip gladly summoned him thither to prove his

innocence before the French peers. He, however, would not attend, and the Court pronounced judgment, that "whereas John, Duke of Normandy, in violation of his oath to Philip his Lord, had murdered the son of his elder brother, a homager of the crown of France, and near kinsman to the King, and had perpetrated the crime within the Seignory of France,—he was found guilty of felony and treason, and was therefore adjudged to forfeit all the lands which he held by homage."—But notwithstanding the formality of this instrument, the interest which Philip had in making out John to be guilty, would render it very suspicious evidence in the present case. Yet, though all the preceding accounts of this supposed murder are at variance with each other, it is now generally the custom to regard this King as stained with Arthur's blood, and rather as a monster than as a man. It has, however, been lately brought forward, as an additional argument, in Mr. Hardy's paper in the Archæologia already referred to, that John was actually at Rouen on April 3rd, 1203, the very day when the murder is affirmed to have been committed; and that it was scarcely possible for it to have happened there without his knowledge.

Beside the possession of Arthur, King John also secured that of his sister Eleanor, usually called "the Maid of Bretagne"; whom he confined in England, that she might not, by marriage with any foreign Prince, raise up a new rival to his throne and power. The Bretons and French were, nevertheless, determined upon revenging the death of their Duke, in place of whom they elected Alice, the daughter of Constance,[a] the mother of Arthur, by her second husband, Guy of Thouars, whom they appointed her

[a] Constance, Duchess of Bretagne, died at Nantes, Aug. 31st, 1201.

guardian. The French army also marched against King John's territories in Normandy with the greatest success, at which time the contemporary Historians accuse him of passing his time in slumber and festivity at Rouen; receiving tidings of Philip's numerous captures, with a horse-laugh, observing with menaces and oaths, "Let him take them, I will in one day recover them: the English sterlings will restore all things." His last effort in defence of these foreign possessions, was a brave, though unsuccessful, attempt to relieve the strong fortress of Chateau Gaillard, by his general the Earl of Pembroke; and on December 6th, 1203, he retreated to England. Before the end of the summer, Philip had subdued all Normandy; and nearly the whole of Poictou, Anjou, and Maine, followed with equal ease.

Of all the possessions of his father in France, the King now retained only Guienne, whence it is said that he received the surname of Lackland from all his contemporaries; though it was probably only a revival of the same title formerly given him by Henry II. But his deprivations certainly exposed him to public censure and scorn; and the son of Bertrand de Born, a Troubadour, openly condemned him in the following poem.

"I will make a sharp-edged Sirvente, which I will send to the King of England, to cover him with shame. Much indeed he ought to have, if he remember the deeds of his forefathers; if he compare them with his indolence, in thus leaving Poictou and Touraine in the possession of Philip.—All Guienne regrets Richard, who spared no treasure to defend it. But this man has no feeling. He loves jousts and hunting; to have hounds and hawks; to drawl on a life without honour; and to see himself plundered without resistance. I speak but to correct a King, who loses his subjects because he will not assist them.—Yes, Sire! You suffer your honour to fall into the soil; and,

such is your infatuation, that, far from being sensible to reproach, you seem to take pleasure in the invectives with which you are loaded!"

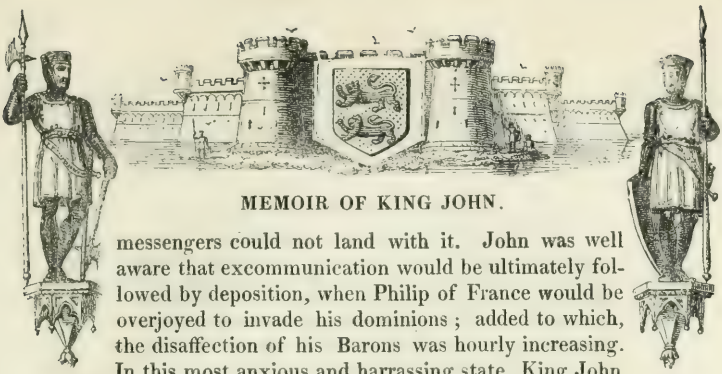
During these events, the Barons of England appear to have been wholly passive; and, in consequence of their inactivity, the King on his return fined the whole realm a seventh; which proving insufficient for his purpose, a second assessment was made, and even a third, when Geoffrey, Archbishop of York, solemnly cursed the royal collectors, and then departed out of the kingdom. From this period arose the contentions, which so perseveringly continued until Magna Charta was granted and confirmed; and from 1205 to 1207, the disputed election of Cardinal Langton to the See of Canterbury, shewed the extent of the Papal power in England: for in the latter year all Britain passed under the Interdict of Innocent.[a] The Pope on his part pronounced the King, his followers, and his possessions accursed; and the King, in return, seized on Abbies, Priories, and Bishoprics for his own purposes, and banished their ecclesiastical possessors from the kingdom. Nor were these rigorous proceedings wholly confined to the Clergy; for to prevent the Barons from arming in their defence, hostages were demanded from them, and those who refused, met

[a] Some notices of this Interdict, with an account of its relaxation, have already been given in the preceding Essay, pages 10, 11. It was pronounced on March 23rd, 1207, the day after Passion Sunday, by the Bishops of London, Ely, and Worcester, after they had vainly attempted to move the King by describing its terrors. The English Prelates then fled to Scotland and the Continent, only one, the Bishop of Winchester, remaining in this realm; upon which the churches were closed, no bell was tolled, and no service solemnly performed; the Sacraments were administered only to infants, or the dying; the dead were buried silently in unconsecrated ground; marriages were performed, and women were churched, at the doors of the holy edifices; and prayers and sermons were pronounced to the people in the Church-yards. Ecclesiastical Interdicts are supposed to have existed as early as A. D. 560, though they were not perfectly understood, or generally used until the eleventh century.

with the heaviest vengeance of the King. So many disappointments, losses, and distresses, on every side, seem to have had a great effect on the mind and temper of John: they appear to have unsettled his reason, and perhaps imparted to some of his actions that degree of cruelty which every one must condemn.

But notwithstanding his losses in Normandy, and the fickle plans by which he attempted to recover them, he appears to have been more successful in preserving to his crown the supremacy over Scotland, Wales, and Ireland. In June, 1209, when John advanced in arms against William, King of Scots, he compounded for his safety by agreeing to pay 1500 marks, for "the good will of his lord," and gave up the custody of his two daughters; leaving also several of his nobles as hostages for payment. In 1210 John led a powerful army into Ireland, and received the homage of twenty native Princes at Dublin; whilst his residence in that country contributed greatly to its civilisation, since he divided the English provinces there into Counties, establishing in them the laws and coin of his own realm. The next year the King carried his arms and victories into Wales, as far as Snowdun, where he prescribed to Prince Llewellin the terms of peace; receiving twenty-eight noble youths as hostages, all of whom were the next year executed at Nottingham, upon a new insurrection which had arisen on the borders.

But whilst his arms were thus successful, his dispute with the Pope was making a much more serious and unfavourable progress. After the Interdict had continued a year, and the King had not yielded, in November, 1209, Innocent issued against him a Bull of Excommunication; but as it was held to be of no force until it should be officially published in England, the ports were so strictly watched that the Pontiff's



messengers could not land with it. John was well aware that excommunication would be ultimately followed by deposition, when Philip of France would be overjoyed to invade his dominions; added to which, the disaffection of his Barons was hourly increasing. In this most anxious and harrassing state, King John attempted to protect himself from Philip, by retaining in his service several of the inferior Princes, whose territories lay on the Northern or Southern parts of France.

But to guard against the Pope, Matthew Paris accuses him of a most abandoned design; on the authority of an ill-formed and dark-looking ecclesiastic, called Robert of London, who was a monk of St. Alban's, contemporary with Matthew, and one of the messengers sent on a private embassy to Mohammed Al Nassir, usually called the Emir Al Moumenim, whose conquests in Spain had greatly depressed Christianity in Southern Europe. With the Priest were associated two Knights, Thomas de Erdington and Ralph Fitz-Nicholas; and when they had arrived at the Moor's palace, they were conducted through several apartments lined with guards, whose arms, habits, and manners, greatly excited their wonder. The Emir himself was a man of moderate stature and grave aspect, who kept his eyes fixed upon a book which lay before him; and to him the King's letter was presented and interpreted. It was afterwards absurdly reported, to have contained an offer of the English crown to Mohammed, and an engagement that John should apostatise to the Emir's Faith. The Moor made several sensible enquiries of the ambassadors concerning the kingdom of England, and dismissed them with fair words; but, as they were retiring, he recalled the ecclesiastic, being struck by his strange figure and countenance, and demanded of

him by his reverence of the Christian Faith, to tell him what kind of man John really was: to which Robert replied, that he was a tyrant, whom his subjects would soon depose. The Emir bestowed several gifts upon Robert, though he called John a delirious dotard, and the ambassadors had no other audience with him: but the King gave the priest on his return, the custody of St. Alban's Abbey during the Interdict. Matthew Paris places these events in 1213; but Dr. Lingard, from whose interesting account of them the preceding has been copied, considers them to belong rather to the year 1209, because they occurred during the Interdict, and before the Emir's power was broken at the great battle of Muradel in 1213.

At length, in 1213, after a strong remonstrance from the Clergy upon their own sufferings and the vices of John, the Pope exerted his power over the King as a traitor against God: and, solemnly deposing him from the realm which he held of God, absolved all his vassals from their oaths of fealty. He exhorted too, all Christian Princes and Peers to unite in dethroning an impious King, and in elevating another more worthy, on the Pontifical authority. As it was to be expected, Philip of France was rejoiced to put this sentence in execution, and not only hoped to succeed by a strong army which was appointed to assemble at the mouth of the Seine, but also by the infamous disaffection of some of the *English Barons*, who promised him their assistance! Some military preparations were likewise made by John; every ship in his kingdom capable of carrying six horses was brought to Portsmouth harbour, and the Sheriffs of Counties summoned to the coast of Kent, all persons who were able to bear arms. The King, however, had not the means of maintaining the vast forces thus collected from fear of invasion; and they were re-

duced to 60,000 men; out of whom, Matthew Paris observes, there was scarcely one on whose fidelity he could depend, though the same historian calls them enough to have defied all the powers of Europe, if they had felt any loyalty towards their Sovereign.

But though possessed only of this mockery of power, it is customary to pass a violent censure upon John, when supported by such an army, for resigning himself to the proposals for reconciliation made by the Pope's confidential Nuncio, Pandulph; who visited him at Dover, May 13th, 1213, and in an artful speech represented to him his danger. At the same time, Matthew Paris assigns four reasons for the King's conduct: his despair of salvation; his dread of the King of France; his doubts of his own Barons, some of whom he knew to be perfidious; and his fear of a prediction uttered by Peter the Hermit of Pomfret, that by the next Ascension-day at noon, he should lose his crown, to which fatal time it wanted but three days. The ceremonial of King John's resignation of the crown and realm on Ascension-Eve, Wednesday, May 15th, 1213,[a] has been described on pages 18-20 of the preceding Essay. As soon as the Feast of Ascension had past, the King ordered Peter and his son, who had been kept in confinement, to be dragged at the tails of horses, and hanged for false prophets; though many contended that he had actually lost his crown, and that the kingdom was no longer his.

The present is another of those points, wherein

[a] The above is the date usually assigned for this event, but the tables in Mr. Nicolas's Notitia Historica, make out Ascension-day to have fallen on May 23rd; perhaps the truth is, that though the instrument of conveyance is dated on May 15th, the public ceremony of delivering it did not take place until Ascension-Eve, the 22nd. The above tables also point out a discrepancy in the ordinary date of Passion, or Palm Sunday, when the Interdict was relaxed as already related. March 23rd, 1207, was on a Friday, and Passion Sunday that year fell upon the 15th of April.

the very name of John becomes a sign for all kinds of infamy and obloquy; and Dr. Lingard is one of the very few Historians who have ventured to find some extenuating features even in the King's resignation of the crown to Pandulph. The summary of his arguments is, that vassalage in the thirteenth century was not very degrading; since it was the condition of many Christian Princes, the King of England being feudal lord to the King of Scotland, and himself vassal to the King of France, each being so for the territories held in the other's realm. Hence it was not uncommon to see them doing public homage to their feudal superiors; and there were also numerous contemporary instances of such a subjection of dominions. Thus, only nine years before this period, Peter, King of Arragon, had voluntarily become the vassal of Innocent; binding himself and successors to pay the Holy See 250 ounces of gold yearly: Henry II., the father of John, made himself the feudatory of Alexander III., and even Richard I., during his captivity, had resigned his crown to the Emperor of Germany, consenting to hold it of him by paying a yearly rent. In his own difficulties, therefore, John appears to have followed these examples; beside which, there is reason to believe, that the disaffected Barons had *themselves* promoted this resignation for the weakening of John's power, and, at the least advised and consented to it. For, from that time, as their demands for their liberties became more absolute, upon the King's refusal to grant them, they appealed to the Pope as superior lord; reminding him that "it was not to the good-will of the King, but to *them, and the compulsion which they had employed*, he was indebted for his superiority over the English crown."

From England the Papal Legate proceeded to France, and commanded Philip and his son to desist

from their intended invasion of England, as it had now become the patrimony of St. Peter; to which the King of France replied that he had spent £60,000 to enforce the Pontiff's sentence, but that he would turn his power upon Flanders for some indemnity; swearing that France should become Flanders, or Flanders France. In the meantime John had landed in Poictou, and had advanced to Angiers and Bretagne; but his progress was first checked by Louis the Dauphin, and subsequently he, with his allies, the Emperor of Germany, and the Earls of Flanders and Boulogne, was defeated by Philip at the famous battle of Bouvines, on July 27th, 1214, after which he returned to England.

Almost all the remainder of John's life, was connected with his memorable disputes with his Barons, on the subject of Magna Charta, and as such has been fully related in the preceding pages of this work. After he had issued that famous grant, the King's mind was so distracted, and he considered his regal powers to be so circumscribed, that he desired the few friends who yet remained with him privately to fortify their castles, and make provision for his defence; since they had counselled him rather to seek revenge, than to give way to useless passion. He also despatched from England two parties, one being to collect forces from Flanders, Poictou, Picardy, &c.; and the other to implore aid from the Pope, for the indignity offered to him in the person of the King. For John himself, Matthew Paris asserts, that the very day after Magna Charta was concluded, he left Windsor for the Isle of Wight, where he spent three months in maturing his plans of revenge; passing much of his time at sea, and even practising piracy. It is argued, however, from the dates of public writs still extant, which have been printed to illustrate this portion of history, that

even on June the 19th he was still at Runnemede,[a] at Winchester on the 27th, at Oxford on July 21st, and that he resided at Dover during the month of September. It is, nevertheless, scarcely possible, to know the real value of these authorities, until the question be decided, as to whether the King was always in reality at the place where such documents were dated and witnessed; although that probably was the case, excepting when it was Westminster, the Sovereign's usual residence.

However, after a season of such close seclusion, that his subjects knew not were he was, and doubted whether he had turned pirate or fisherman,—even those who most wanted him being unable to discover him,—he appeared again at Dover in September, to meet his foreign forces and ambassadors from the Pope. His intercourse with Innocent embraces a long series of instruments, wherein the Great Charter was annulled by the Pontiff, and which terminated with a Special Excommunication of thirty-two of the English Barons therein named, dated on December 16th, 1215. The Peers were, notwithstanding, less affected by Innocent's anathemas than by the victories the King gained over them with his foreign soldiers; of which, with the dreadful devastations committed in that unnatural war, some account has been already given in the Baronial Memoirs contained on pages 270-319, of the present volume. But whatever honour may be attributed to the Barons for having procured the Great Charter, they certainly sullied it for ever by the unpatriotic letters of allegiance, and offer of the English crown to Louis, the Dauphin of France, whom they invited over upon condition of his confirming to them their liberties. Louis, however, demanded hostages, and having received twenty-four

[a] Vide Notes on the Great Charters, pages 322-325.

young men, sons of the noblest English families, he sent over a fleet with a numerous band of French Knights, and a letter that he would lead hither a powerful army at Easter. At this time Cardinal Gualo chanced to be travelling through France to England, and, foreseeing that if Louis were successful, the Pope would lose his interest in this kingdom, he first endeavoured to suspend the expedition by solicitations, and then forbade it, upon the penalty of Excommunication, as belonging to the Holy See.

But the Dauphin had already determined upon the attempt, and, after making a haughty reply to the Legate, sailed for England with a fleet of six hundred and eighty ships, and after some losses landed at Sandwich, May 30th, 1216, when the unfaithful Peers of John joined his standard, He recaptured Rochester Castle, and thence marching to London on June 2nd, was met in procession by the Barons and Citizens, who conducted him to St. Paul's; where he prayed, received the homage of his new subjects, and took a solemn oath to govern them by good laws, protect them against their enemies, and reinstate them in their former rights and possessions. The Baronial enterprise was now attended with rapid success, whilst the cause of King John declined in proportion. The Counties round London, the King of Scots, and the men of Lincolnshire and Yorkshire, declared in favour of Louis; even several of the royal Barons hastened to offer him their homage and fealty; and the foreign soldiers of John either revolted to the Dauphin, or returned to their homes. Some of the King's friends, however, remained so to the last; as Cardinal Gualo, who defended him with the weapons of the Church;[a] the inhabitants of Lynn in Norfolk; and Hubert de

[a] The King's other powerful ecclesiastical friend, Pope Innocent III., had died at Perugia, July 16th, 1216.

Burgh, Earl of Kent, who maintained Dover Castle for him, during a seige of four months, which the Dauphin was finally obliged to raise.

The conduct of the French Prince at length began to excite the suspicion of the Barons, who privately discovered what would be their fate if he succeeded in his enterprise: since it was reported that the Viscount De Melun, a French Peer in the service of Louis, had confessed on his death-bed, that the Dauphin had sworn, if ever the sovereignty of England became his, that he would treat the Barons as men of whose perfidy he was convinced; that he would banish them the kingdom, and wholly extirpate their remaining kindred. Partly, therefore, from fear, and perhaps partly from remorse for their country, torn by the factions which they had created, and wasted by an enemy which they had invited,—several Barons and Knights actually returned to the King, and forty more sent letters of submission, to come back to him upon promise of pardon; but before the messenger could arrive in his presence,—he had expired.

John's last expedition had been against Lincoln, which he reduced, and distributed to his followers the lands there belonging to the disaffected Barons. He left that place October 2nd, and on the 9th arrived at Lynn, where his supplies and treasures were deposited. He next marched to Wisbeach, and afterwards, with his army, had passed over the Wash, from the Cross-keys to the Fossdike; when, on looking back, he saw a long train of horses and carriages laden with his money, jewels, and regalia, swallowed up in a whirlpool formed by the tide and the current of the Welland. In this most distressing state the King went forward to the Cistercian Abbey of Swineshead, where he fell into a violent fever, of which fatigue, anxiety, or poison, are assigned as the cause; though he is

sometimes charged with having brought on a surfeit or dysentery, by an immoderate repast of peaches and new ale.

That account of his death which attributes it to poison, although it casts an additional stain upon the conduct of his subjects towards him, was, however, by far the more popular tradition, and is recounted in some of the later English Chronicles. It states, that when the King stopped at Swineshead, he prophesied that, if he continued to reign, bread should rise in an immeasurable proportion above the value it then bore; which excited the impious zeal of Simon, a Brother of that Abbey, to rescue England from such a fate by involving both the King and himself, in a painful and untimely death. After receiving absolution, as well for this uncommitted crime as for those of his former life, he prepared a cup of wine, in which he infused the venom of a toad; and presenting it to John, told him, with a detestable ambiguity, that he never before partook of such a beverage, and he doubted not that the contents of that cup would cause all England to rejoice. It was the custom of that period, when a King received any thing of this nature at a subject's hands, that they should first partake of it, in order to prevent that deceit which was now practised upon him. Simon having drank thereof by the King's command, John also did the same; the issue was, that in a short time the Monk died in the most violent agonies, and the King survived him only three days. In this time he journeyed to Sleaford Castle, and afterwards to Newark upon Trent: whence he was not removed, until his body was deposited in Worcester Cathedral, where but few tears were shed upon his tomb.

King John died on Wednesday, October 19th, 1216, in the 49th year of his age, after a most unhappy reign of seventeen years, seven months, and ten days. He

was thrice married, firstly, to Alice of Savoy; secondly, to Isabel, or Hadawisa, daughter of William, Earl of Gloucester; and thirdly, to Isabella of Angoulême. By the last he had issue Henry, who succeeded him as King, and was nine years old at his death; Richard, Earl of Cornwall, commonly called King of the Romans; and Edmund: with three daughters, Joan, married to Alexander II., King of Scotland; Isabella, to the Emperor Frederic II.; and Eleanor, who was united firstly to William Marshall, Earl of Pembroke, and secondly, to Simon De Montford, Earl of Leicester. Isabella, of Angoulême was, however, an unfaithful consort, for which Matthew Paris relates that John hanged her gallants over her bed; but the King is also accused of being licentious in his amours, and historians attribute to him nine illegitimate sons and one daughter.

One of his last acts, during the night that he lay sick at Sleaford Castle, was to write to the new Pope, Honorius III., earnestly recommending his children to his protection; and when he arrived at Newark he made his Will, which is yet preserved in the Archives of Worcester Cathedral, and of which the following is a translation.—

"I, JOHN, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Acquitaine, and Earl of Anjou, being prevented by grievous sickness, and having not sufficient space in this time of my weakness, now hastily passing away, that my Testament should be adapted to every one and for all my affairs;——the ordering and disposition of my Will, of my faith and lawful disposal, I commit to my faithful subjects underwritten; without whose counsel, they being appointed when in healthful state, these presents may in no wise be ordered: that what they shall faithfully ordain and dispose concerning my affairs, as well as in making satisfaction to God and the Holy Church for damages and injuries brought upon them; as in their giving

aid to the land of Jerusalem; and in providing of the support to be enquired after for the inheritance and defence of my sons; and in making recompense to those who have served us faithfully; and in making distribution of alms to the poor and Religious Houses, for the health of my soul;—shall be established and made sure.—I pray, also, that those who shall give them counsel and aid, to the ordering of this my Testament, may partake of the grace and favour of God; but that such as shall break through their ordinance and disposition, may incur the malediction and indignation of Almighty God, and the Blessed Mary, and of all the Saints. Imprimis: I will, therefore, that my body should be sepultured in the Church of St. Mary and St. Wulstan of Worcester.—I also constitute these persons as managers and disposers for me:—The Lord Gualo, by the grace of God, entitled Cardinal-priest of St. Martin of the Holy Apostolic See; the Lord P(eter de Rupibus,) Bishop of Winchester; R(ichard Poore,) Bishop of Chichester; S(ilvester de Evesham,) Bishop of Worcester; Brother Aimeric de Sancta Maura; William Marshall, Earl of Pembroke; R(anulph Blundeville,) Earl of Chester; William, Earl of Ferrers; William Bruwne; Walter de Lasey, and John de Monemut; Savary de Maleon; Fulke de Breante."

Beside these testamentory instructions, the King desired that his son Henry should succeed him.

It is melancholy to reflect on the character of King John, since most of his biographers have given it in the darkest and worst of terms: representing him as stained with meanness, dissimulation, contempt of religion, cruelty,[a] perjury, and murder; an ambition

[a] Of his cruelty there are probably the most authentic proofs, some of which have been mentioned in the preceding pages. Beside these, Matthew Paris has recorded it of him, that he confined the wife and children of a Baron who had offended him, in Windsor Castle until they died of famine. He states also, that during the Interdict, when Geoffrey, Archdeacon of Norwich, left his seat at the Exchequer, the King ordered him to be confined, and sent him a cope, or large mantle, of lead, to keep him warm in prison; in which garment his head only was left at liberty, and he remained without food

reckless of crime, and a weakness, or even cowardice, which shrank at the very semblance of opposition. His virtues, if ever he possessed any, have been swallowed up in the fiercer picture which Historians have delighted to paint of his vices; and he who should now attempt to bring forth the former or extenuate the latter, would meet with far less credit than censure; though the apparently wavering character of the King's mind has sometimes been attributed to insanity. Perhaps, of all his biographers, Holingshed, when summing up his life from the Monastic Chronicles, has given the most favourable view of it; and it is therefore attached to the present Memoir, on account of its singularity and candour towards a Sovereign whom all others have delighted in condemning.

"He was comelie of stature, but of looke and countenance displeasant and angrie, somewhat cruel of nature, as by the writers of his time he is noted, and not so hardie as doubtful in time of perill and danger. But this seemeth to be an enuious report, uttered by those that were given to speake no good of him whom they inwardlie hated. Howbeit, some give this witnesse of him, as the author of the booke of Bernewelle Abbey and other, that he was a great and mightie prince, but yet not very fortunate, much like Marius, the noble Roman, tasting of fortune both waies: bountifull and liberall unto strangers, but of his owne

or assistance till he died. In his persecution of the Jews, this King was probably not worse than the times wherein he lived; but on one occasion he demanded from a rich Jew of Bristol a present of 10,000 marks, ordering one of his teeth to be drawn every morning until it was paid. For some time he resisted, and seven of his double teeth *were* extracted; but on the eighth day he solicited a respite, and gave security for the payment. It can scarcely be imagined that John possessed much devotion; but, perhaps, it will not at the present time be considered as a proof of his abandoned immorality, that he exclaimed when he saw a fat stag cut up after hunting, "How happily hath this fellow lived, and yet he never heard mass!"

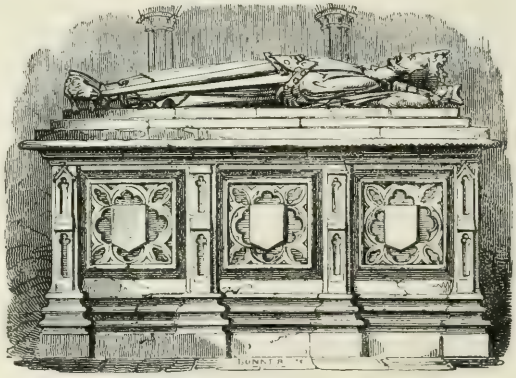
people (for their dailie treasons practised towards him) a great oppressor, so that he trusted more to forreners than to them, therefore in the end he was of them utterlie forsaken.

"Verilie, whosoever shall consider the course of the historie written of this prince, he shall find, that he hath beene little beholden to the writers of that time in which he liued: for scarselie can they afoord him a good word, except when trueth in forceth them to come out with it as it were against their willes. The occasion whereof (as some thinke) was, for that he was no freend to the clergie. And yet vndoubtedlie his deeds show he had a zeale to religion, as it was then accompted: for he founded the abbeie of Beaulieu in the New-forrest, as it were in recompense of certaine parish churches, which to inlarge the same forrest, he caused to be throwne downe and ruinated.

"He builded the Monasterie of Farendon, and the Abbei of Hales in Shropshire; he repaired Godstow, where his father's concubine Rosamond laie interred; he was no small benefactor to the Minster of Litchfield in Staffordshire; to the Abbeie of Crokesden in the same shire; and to the Chapell of Knaresburgh in Yorkshire. So that, (to say what I thinke,) he was not so void of deuotion towards the Church, as diuers of his enimies have reported, who of mêere malice conceale all his vertues, and hide none of his vices; but are plentifull enough in setting foorth the same to the vttermost, and interpret all his doings and saieings to the woorst, as may appeare to those that advisedlie read the works of them that write the order of his life, which may seeme rather an inuective than a true historie: neuerthelesse, sith we cannot come by the truth of things through the malice of the writers, we must content our selues with this vnfriendlie description of his time. Certeinlie it should seeme the man

had a princelie heart in him, and wanted no thing but faithful subiects to haue assisted him in reuenging such wrongs as were doone and offered by the French King and others.

"Moreover, the pride and pretended authoritie of the cleargie he could not well abide, when they went about to wrest out of his hands the prerogative of his princelie rule and gouernment. True it is, that to mainteine his warres, which he was forced to take in hand, as well in France as elsewhere, he was constreined to make all the shift he could deuise to recouer monie; and because he pinched their pursses, they conceiued no small hatred against him: which when he perceived, and wanted peradventure discretion to passe it ouer, he discouered now and then in his rage his immoderate displeasure; as one not able to bridle his affections, a thing verie hard in a stout stomach, and thereby missed now and then to compasse that, which otherwise he might verie well have brought to passe."



MEMOIR

OF

Stephen Langton,

ARCHBISHOP OF CANTERBURY.



CONSIDERING this Prelate as one of the most active members of that confederacy, which procured from King John the Great Charter of Liberties, and even as the very individual by whom the ancient precedent was discovered, on which that Charter might be founded, the ensuing account of his life seems properly to belong to the subject of the present volume; as embracing biographical notices of the principal persons, engaged in effecting the establishment of that great national covenant.

STEPHEN LANGTON was a native of England, although none of his biographers assign with any degree of certainty, either in what part, or at what period he was born. He received his principal instruction in the University of Paris, where he was held in great esteem by the King and nobility of France, for his literary acquirements, by whom he was principally employed as a teacher of divinity. This also procured his advancement to be Canon of Paris, Chancellor of the University in the same City, and Dean of Rheims; and the fame of his learning reaching to Rome, he was summoned thither by Innocent III., who conferred upon him the dignity of Cardinal.

The predecessor of Langton in the See of Canterbury, was Hubert Walter, who died in July 1205; and King John, who had long acted under his direction, felt more inclined to rejoice at his death, and the liberty which he seemed to have gained by it, than to lament the loss of that excellent counsellor. "Methinks," said he, "I am now indeed King of England;" but, adds an ecclesiastical Historian of the sixteenth century, "had he known either how ill he might have missed him, or great trouble his death would have caused him, he would rather have said, Now I begin to lose my kingdome." Upon the death of Hubert, John immediately seized upon his possessions for his own use; although they were otherwise bequeathed by the Prelate's will. The Monks of Canterbury, being now very desirous of exercising their privilege of electing another Archbishop, to prevent any direction of the King's from interfering with it, met at midnight, nominated Reginald, their Sub-Prior to the office; and, sending him to Rome to have his election confirmed, made him swear to conceal his dignity till he arrived in the presence of Innocent III. The vanity, however, of the Archbishop-elect overcame his honour, for he had scarcely passed the seas, when he proclaimed his ecclesiastical dignity, and displayed his testimonial of election; which so excited the resentment of his brethren, that they rendered void their former election, and petitioned the King for liberty to make a second. As the first proceeding had been wholly without John's consent, he gave his permission, and nominated John Grey, Bishop of Norwich; a Prelate singularly well qualified for the office, and then in the King's employment, as successor to the vacant Archbishopric. After his election had been solemnised in the most splendid and public manner, both that and the former were

presented to the Pope, only for the usual ceremony of his confirmation; but Innocent perceiving the division that had already taken place, overcame the arguments and scruples of the monks who were then at Rome, and, setting aside both elections, brought forward Stephen Langton, who was still remaining at that City. Of this ecclesiastic Bishop Godwin remarks, that he was "a man in regard of gifts of mind and body, very fit for the place, and no way to be misliked, if he had orderly obtained the same."

The close of this disputed election has already been related: after King John became acquainted with Innocent's duplicity, they remained in a state of mutual violence and enmity, until the former resigned his kingdom and his crown to Pandulph. Langton, however, had but little interest in these dissensions. After receiving consecration from the hands of the Pope at Viterbo, about 1207, he took possession of his Archiepiscopal dignity in England, about 1213, and soon became attached to the Baronial party; and he is usually stated, upon the authority of Roger de Wendover, to have been the original discoverer of that grant of Henry I., on which the Great Charter was afterwards founded.

In 1214, the Archbishop summoned a Provincial Synod of his suffragans and clergy at Dunstaple, when various complaints were made of the Legate's arbitrary manner of interfering in ecclesiastical affairs; and it was resolved that a deputation of that Council should signify to him, that Langton had appealed to the Pope concerning him, and at the same time had inhibited his institution of priests in the Province of Canterbury.

In 1215, the conduct of Langton in supporting the demands of the Barons upon King John, brought upon him a sentence of Suspension from Innocent;

but the following year he assisted at a General Council held at Rome, and during his absence from England the King died. In 1223, at the head of the Nobility of the nation, he required of Henry III., then declared of age by the Bull of Honorius III., the confirmation of King John's Charter of Liberties; and when one of the Sovereign's Councillors answered for him, that, having been extorted by force, it was not binding on him, he replied, "If you loved the King, Sir, you would not prevent the peace of the realm:" which convinced Henry how much he would hazard by a refusal. The royal castles which had been seized on and retained to enforce King John to perform the engagements of Magna Charta, were by the same Bull ordered to be restored, though the Earls of Chester and Aumerle, and several other Barons who held them, not only refused to obey it, but even proceeded to raise forces to support their denial, and another civil war seemed inevitable. It was here that Langton shewed his loyal and prudent spirit; for upon his proceeding to excommunicate those who remained refractory, the fortresses were at length given up to the King. The other acts of this Prelate were the passing of a Canon in 1222, against the adulterous conduct of his Clergy, and the division of the Sacred Writings into chapters, is also ascribed to him. He is likewise said to have erected the Archbishop's Palace at Canterbury: and, on July 7th, 1220, he translated the remains of Thomas à Becket from his plain, yet adored, place of burial, in the undercroft of the Cathedral, to a costly altar-tomb in the centre of Trinity Chapel there; and deposited it within the new Shrine, which was covered with plates of gold, chased and embossed, adorned with broaches, images, angels, chains, precious stones, and orient pearls. The expences attending this Translation, at which the King, Cardinal Pan-

dulph, the Archbishops of Canterbury and Rheims, several Prelates and Abbots, and the greater part of of the English Nobility were present, was undertaken by Langton; who provided free entertainment and forage along the road from London, for all who would attend, beside wine to flow in various parts of Canterbury, and a magnificent banquet for his illustrious visitants: he thus, however, incurred so heavy a charge upon the See, that neither himself, nor three of his successors were able to defray it.

This Prelate also held a Convocation at Osney, in the County of Oxford, which was principally celebrated for the decrees which were there instituted, and for the appearance of three extraordinary impostors, who professed to be Jesus Christ, the Virgin Mary, and Mary Magdalene; the former of whom shewed several wounds in his hands, feet, and side, in proof of his assertion: they were condemned by that Council to be immured within four walls until they died.

In John Bale's *Scriptores Illustres Majoris Britanniæ*. Wesal. 1549, 4to. fol. 102 b, will be found a short memoir and list of the works of Cardinal Langton; the latter consisting of Commentaries on the Pentateuch, Joshua, Judges, Kings, the Psalms, and the lesser Prophets; the Lives of Thomas, Archbishop of Canterbury, and King Richard I.; Annotations on the whole Bible and Testament by distinct chapters, and some other religious tracts. A more extended catalogue, together with almost a literal copy of Bale's account of Langton, are inserted in the Lives and Acts of the Popes and Cardinals of the Holy Church of Rome, by Alphonso Ciaconio, Rom. 1630, Fol. page 647. It is not now to be discovered whether all of these works are extant; but Langton's account of the Translation of Becket's Remains is attached to the Letters of that Archbishop, printed at Bruxelles in

in 1682, 4to.; and in D'Acheri's *Spicilegium*, Fol. Edit. Vol. III., page 258, may be found copies of two Letters which passed between King John and Langton, on the subject of the Archbishop's election. Beside these writings, the Cardinal has also left behind him some specimens of his poetry; although in a work not the most likely to contain such a production. In a communication from the Abbé De la Rue, printed in the *Archæologia*, Vol. xiii., page 231, it is stated that in the Duke of Norfolk's library there is a manuscript, containing a Sermon and two other pieces, written by Langton; and that in the course of the Sermon, which is upon the Holy Virgin, there occurs the following stanza:

Bele Aliz matin leva	Fair Alice arose in the morning,
Sur cors vesti et para,	And put on her vest and made her ready;
enz un verger s'en entra,	Then she went into her bower,
cink fleurettes y' truva,	And found there five flowerets,
Un chapelet fit en a	Which she made into a chaplet
De Rose flurie	With the blooming rose:
Pur Deu trahez vous en a la	And you will betray God herein
Vus ki ne amez mie.	If you do not love me. (Alice.)

"The orator, then," continues this account, "enforces each particular verse, and applies it mystically to the Holy Virgin. The allegorical turn which he gives the whole of the above stanza is very happily handled, and the preacher in speaking of his subject cries out at frequent intervals with enthusiasm,

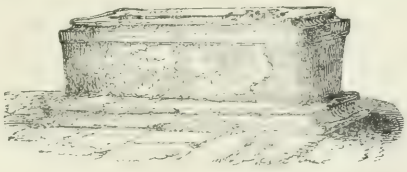
'Ceste est la Bele Aliz,	This, this is Alice, fair to see,
Cest est la flur, ceste est la lis.	The flower, the lily, this is she.'"

It may appear somewhat singular that, at a period when elegant literature was so perfectly unknown, poetical allegories and allusions should be introduced into the pulpit, but they were very frequent in the older monastical sermons, which often partook of a highly mystical character; and the author of the above account states that, in the twelfth century the life of Thomas à Becket was delivered in French

verse in Canterbury Cathedral. M. De la Rue considers Cardinal Langton to have been the best of the Anglo-Norman poets of the thirteenth century, and continues to remark that, in the manuscript containing the Sermon, there are two other pieces, which he attributes to the same Author. The first is a fine religious drama on Morality, in which Truth, Justice, and Mercy, consider what should be the fate of man after his fall; the idea of which is taken from Psalm lxxx. 10, and the other is a poem of upwards of 600 verses, on the Passion of Jesus Christ.

Cardinal Langton died on July 9th, 1228, at his Manor of Slindon in Sussex, after reigning twenty-two years as Archbishop; and his remains were deposited in a Chapel, called St. Michael's, or the Warrior's, in Canterbury Cathedral, which stands on the South side against the Western Transept. His tomb, which is represented in the initial letter and tail-piece of this Memoir, is a plain stone sarcophagus, having a rich patriarchial cross sculptured on the cover. It originally stood under the altar, and is now partly fixed beneath an arch, and partly projecting into the Chapel.

This Prelate is considered to have been an elegant and learned Author for the age in which he lived; since his explanations of the Scriptures even in his youth were very greatly esteemed, and none of his contemporaries were better acquainted with the logic of Aristotle, or superior to him in adapting it to the doctrines of Scripture.



ADDITIONAL

Notes and Illustrations,

The following biographical notices are inserted in this part of the present Volume, to furnish the reader with a few particulars of certain eminent personages, whose names have become familiar in the preceding pages; and of whom it might be desirable to possess some additional information.

I. BIOGRAPHICAL NOTICE OF ROBERT FITZ-WALTER, BARON OF DUNMOW.

Vide Notes to the Great Charters, Page 270.



HE family of this very celebrated leader of the English Barons, was both ancient and also of very considerable rank, as the first members of his house were connected with the Earls of Brion, Buckingham, and Huntingdon; and the celebrated Lords of Clare sprang from a scion of the same stock. Robert, Baron of Dunmow, was the first of his line who bore the surname of Fitz-Walter, in allusion to the christian appellation of his father, Walter Fitz-Robert: his mother was Maude de St. Liz, or Lucy, who died in 1140, being the first wife of his father. In the year 1111, William Baynard forfeited to the crown the honour of Castle-Baynard and the Barony of Dunmow, on being found guilty of felony; and King Henry I. presented these Lordships to his Steward, Robert Fitz-Richard, through whom they descended in a right line to his grandson, Robert Fitz-Walter. He was admitted to the livery of such lands as descended to him from his uncle, Geoffrey de St. Lucy, Bishop of Winchester, in 1204-5, the 6th of John, upon payment of 300 marks, £198.

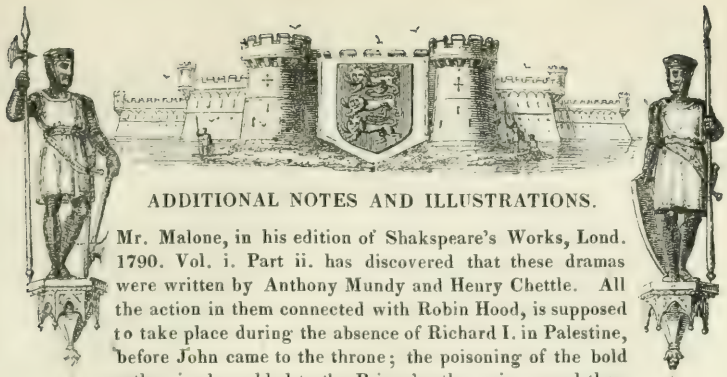
The first act which is recorded of him, conveys an unamiable specimen of his mind and character:—"Robert Fitz-Walter," says Dugdale, "in the 5th of John,—1203,—

being trusted, together with Saier de Quincy, to keep the Castle of Ruil in France, delivered it up to the King of that realm so soon as he came before it with his army." This appeared to imply not less of disloyalty than of cowardice, a vice which certainly could never be charged on the character of Fitz-Walter; but a short time after, proved to which of these motives it was to be assigned: the Barons were prepared for tumult, and, in the 14th year of King John, 1212, several conspiracies were discovered, wherein this peer was materially concerned. A mind formed upon the principle of Fitz-Walter's, hardy, resolute, and haughty, would entertain a natural contempt for the weak motives which governed the actions of John; and to this mental antipathy may be attributed much of the enmity which that Baron conceived for his Sovereign. On the discovery of Fitz-Walter's treasonable practices, he sought with his wife, Gunnora de Valoines, and his children, an asylum in France: the year following, namely, 1213, he was recalled, and with the other Barons reconciled to John, but this friendship was of short duration; in a little time he was charged with the same crimes, and his mansion, denominated Castle-Baynard, was in consequence entirely destroyed. Notwithstanding the hatred which existed between Fitz-Walter and John seemed violent in the greatest degree, yet tradition has assigned for it a cause as disgraceful to the Monarch to offer, as it was distressing for his subject to sustain: Sir William Dugdale, when relating it, thus speaks, "The primary occasion of these discontents is by some thus reported; viz. that this Robert Fitz-Walter, having a very beautiful daughter, called Maude, residing at Dunmow, the King frequently solicited her chastity; but never prevailing, grew so enraged, that he caused her to be privately poisoned, and that she was buried on the South side of the Quire at Dunmow betwixt two pillars there."

An alabaster figure richly habited, which is said to represent this lady, is yet preserved on a grey altar-tomb in the South wall of the Church of Little-Dunmow; opposite to a monument and effigies ascribed to her grandfather, Walter Fitz-Walter, who died in 1198, and his second wife,

Matilda Bohun. A copy of the former figure is given in the ensuing engraving; a larger plate and description of which will be found in Gough's *Sepulchral Monuments*, Vol. i., Part i., page 31, plate vii. It is probable, however, that the place in which this tomb now stands, though agreeing with the ancient account of Matilda Fitz-Walter's burial-place, as it regards the present choir, is still not in its original situation; since Mr. Gough observes, that the present choir of Dunmow Church, is only the Eastern end of the South aisle, all the rest being pulled down; so that the bodies of the tombs in it, are perhaps in the ploughed field which occupies the site of the ancient choir. The above effigy is supposed to have been originally painted, the fingers being yet stained with a red colour; which, however, has been absurdly pointed out as the effect of the poison given by order of John; since the above account of her death has always been a very popular story. It was originally taken from the Chronicle of Dunmow Priory, and has been the subject of several poems and plays; in which, however, the heroine sometimes appears under the celebrated name of Malkin, or Maid Marian, the Queen of the May, and becomes the forest-mistress of Robin Hood. Ritson supposes, that this was first done in two very rare plays, entitled "The Downfall of Robert, Earl of Huntington, afterwards called Robin Hood of merrie Sherwoode; with his love to chaste Matilda, the Lord Fitz-Water's daughter, afterwards his faire Maid Marian." Black-letter, 1601, 4to. The second part of this history is named, "The Death of Robert, Earle of Huntington, otherwise called Robin Hood of merrie Sherwoode: with the lamentable tragedie of chaste Matilda, his faire Maid Marian, poysoned at Dunmowe by King John:" date as above. See Ritson's *Robin Hood.* Lond. 1795, Vol. i. pp. li., lxvi.





Mr. Malone, in his edition of Shakspeare's Works, Lond. 1790. Vol. i. Part ii. has discovered that these dramas were written by Anthony Mundy and Henry Chettle. All the action in them connected with Robin Hood, is supposed to take place during the absence of Richard I. in Palestine, before John came to the throne; the poisoning of the bold outlaw is also added to the Prince's other crimes, and they conclude with the popular legend of Matilda. The next fictitious productions relating to Fitz-Walter's daughter, were Michael Drayton's two letters in verse, between her and King John, and his poetical Legend of Matilda the Fair; first published in his Works in 1605, 8vo.; and in 1655 appeared Robert Davenport's play of "King John and Matilda," originally acted by the Queen's servants at the Cock-pit in Drury Lane. In this tragedy neither historical truth nor dramatic arrangement are observed, and much of the dialogue is of a very inferior character; though there are many passages of considerable excellence, which may be most pleasantly perused, with an analysis of the whole drama, in an excellent article upon it, in the *Retrospective Review*, 1821, Vol. iv. pp. 87-100. The most remarkable feature of this production is, that it preserves the particulars of an act of cruelty charged upon King John, by Matthew Paris; namely, his imprisoning the wife and son of William de Brewes, in Windsor Castle, under the Earl of Chester; through whose revenge they are left to die of hunger, which has been already noticed on a former page. The poisoning of Matilda is effected by her kissing an envenomed glove, sent her by the King in token of his reformation.

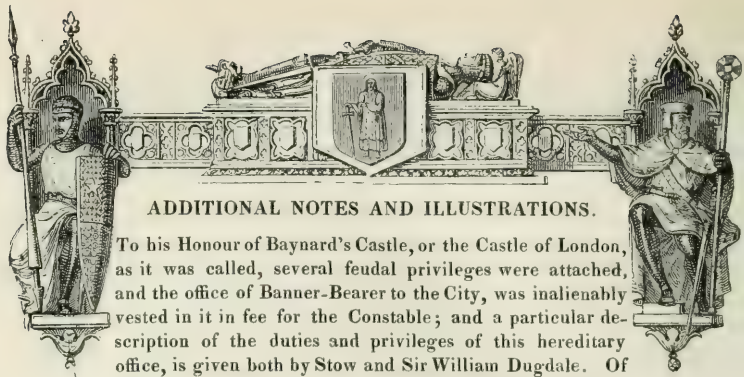
Such are the slight authority, and strange romances, which have perpetuated another charge of murder upon the memory of King John: but whether the preceding relation be founded on truth or fiction, Fitz-Walter's opposition was made under another plea, and the Barons demands for Magna Charta formed the pretence by which his actions were influenced. Here, however, the life and conduct of a single individual melts into the wide and agitated sea of history which opens at this period, and the active endeavours of Fitz-Walter, Langton, and Inno-

cent, become blended with each other. When Philip II., about this time, had commenced an attack on the possessions of the English in Normandy, John retaliated on the realm of the French King; but upon a truce being declared between them, a tournament took place in presence of both Monarchs, at which Fitz-Walter, concealed in his armour, at the first course overthrew both horse and man, upon which the English Sovereign swore "by God's tooth! he deserves to be a King, who hath such a soldier in his train." Upon this some friends of the Baron made him known to John, who restored to him the whole of his forfeited estates, and permitted him to repair his destroyed fortresses. After serving John as Governor of Hertford Castle, in 1214-15, the 16th of his reign, Fitz-Walter was again placed in opposition to the King: the Barons grew loud in their demands for Magna Charta, and the active spirit of this peer made him a desirable leader to their party. His lands were again seized on, and those in Cornwall committed to the keeping of Prince Henry, which effectually secured him to the discontented Barons, who made him one of their Commissioners to treat of a composure of differences at a meeting at Erith Church; to which he had letters of safe-conduct. But his connection with their efforts for the procuring of Magna Charta have already been related.

After the conclusion of that instrument, when John endeavoured to elude his promises, in 1216 a deputation of the Barons was sent to France, to invite over Louis the Dauphin: Fitz-Walter was one in this infamous commission, and, on the Prince's landing, he assisted, with William de Mandeville and William de Huntingfield, in reducing to their authority the Counties of Essex and Suffolk. But on John's death, after Louis had conquered the Castle of Hertford, which Fitz-Walter had formerly governed, he refused to render it again into the hands of that Baron; at the same time observing, that the English nation, having proved false to their own Sovereign, were unfit to be trusted with such important privileges: he added, however, that when the kingdom should be more at rest, their rightful claims should be conferred upon all.

Louis, by such speeches, shewed how wavering was his faith in the honour of the English Barons; but his actions were stronger than even his words, which so wrought upon many of them, that joining themselves to Henry III., Louis was at length compelled to form a truce with that King, and at the same time engage to quit the kingdom. In consequence of this agreement, those Lords whom Henry's party had made prisoners were set at liberty, and with many others was Fitz-Walter. It might have been expected that the wounds of England would then have been permitted to close for a space, if not finally to heal; this at least appeared to be the wish of several Barons, who became faithful in their allegiance to Henry. But some haughty and ambitious spirits were still abroad, and their unyielding ferocity continued to protract the civil conflict. Saher de Quincy, Earl of Winchester, had yet retained his Castle of Mountsorrel in Leicestershire, against the forces of Henry. William Marshall, the young King's Protector, was at that time besieging it; and the Earl solicited Louis to assist him in his defence: upon which the Dauphin exciting the Citizens of London in his cause, they raised a force of upwards of 20,000 soldiers for the same purpose, whilst Fitz-Walter, again in arms, was made one of their generals. The siege of Mountsorrel was, however, raised by the Earl of Chester, the King's troops retired to Nottingham, and, after an active conflict between the two armies, the royalists were left victors, and Fitz-Walter was once more their prisoner. He did not long continue in such a situation, for in 1218 he assumed the cross and departed for Palestine; and in the same year was at the siege of Damieta in that country. In 1234 Fitz-Walter died, though from what causes it is now impossible to discover; and was buried before the High-Altar of Dunmow Priory. Christina, his daughter, married to William de Mandeville, Earl of Essex, Roese, his second wife, and Walter, his heir, by Gunnora de Valoines his former one, were all living at that period.

Notwithstanding the enmity of Fitz-Walter to the Sovereigns under whom he lived, and the frequent confiscations of his property, his possessions were still very extensive.



ADDITIONAL NOTES AND ILLUSTRATIONS.

To his Honour of Baynard's Castle, or the Castle of London, as it was called, several feudal privileges were attached, and the office of Banner-Bearer to the City, was inalienably vested in it in fee for the Constable; and a particular description of the duties and privileges of this hereditary office, is given both by Stow and Sir William Dugdale. Of his other possessions some estimate may be formed by the records, which state that in 1211-12, the 13th of John, on an assessment of Scutage for Scotland, he was acquitted by the King's special command of the payment for sixty-three Knights-fees and a half, of his own inheritance, and thirty and one third more, held in right of his wife, Gunnora, the daughter and heir of Robert de Valoines; and also for two others, which descended to her from Geoffrey de Valoines, her uncle. In the 16th of John, 1214-15, at the Scutage of Poictou, these estates were valued at the sums of £127 for the 63½ Knights fees, £60 13*s.* 4*d.* for the 30⅓, and £4 for the two remaining.

The name and Barony of Fitz-Walter continued in a direct line to Walter, the seventh in descent, who was an active soldier in the French wars of Henry V., and who died in 1432, the 11th year of Henry VI. His heir is supposed to have been his daughter Elizabeth, married to Sir John Ratcliffe, Knight, Lord Dinham; in which family the title of Fitz-Walter continued until the decease of Robert, Earl of Sussex, in 1629, without issue. The Earldom then reverted to his cousin, Edward Ratcliffe; but the Barony devolved upon the descendants of Frances, daughter and heir of Henry, Earl of Sussex, father to Robert. She married Sir Thomas Mildmay, Knight, who in 1640 claimed to be Lord Fitz-Walter in right of his mother; which, though the distractions of the time prevented an enquiry being then made into his right, was at length allowed him in 1669. His claim however, was, opposed by Robert Cheeke, Esq. son of Henry Cheeke, Esq. who had married Frances, one of the sisters and coheirs of the whole blood to Edward, the last Earl of Sussex, who died without issue in 1641. His objections being firstly, that of half-blood in Mildmay;

and, secondly, that the Barony of Fitz-Walter was merged and extinct with the Earldom. But upon full debate and mature consideration of this question, it was determined that "the half-blood could not be any impediment in the case of a dignity, and that although a Baron in fee-simple be created an Earl, the Barony shall descend to the heir-general whether or not the Earldom continue or be extinct." In November, 1670, was decided this Lord Fitz-Walter's claim of precedency to all Barons then sitting as such, when it was adjudged that he should be placed as the last Baron in the reign of King Edward I. The title, however, existed but a short time longer. On May 14th, 1730, Benjamin, the son of the claimant, was created Viscount Harwich, and Earl Fitz-Walter; but dying in 1756 without surviving issue, both titles became extinct, and the Barony fell into abeyance between the numerous representatives of the five daughters and coheiresses, of his sister Mary Mildmay.

The Arms borne by the ancient house of Fitz-Walter were Or, a fesse between two Chevrons, Gules; as they are shewn upon the shield and horse-trappings of an equestrian figure, engraven on the beautiful silver seal of Robert, fifth Baron Fitz-Walter, grandson of the subject of the present Memoir, a copy of which will be found at page 104 of this volume. The Arms under the horse's head of seven Mascles conjoined, are those of his second wife, Eleanor, daughter of Robert de Ferrers; which prove the seal to have been executed between the years 1298 and 1304. The dragon beneath, probably alludes to another and smaller seal used by this Baron, whereon are two such animals placed as supporters. The original matrix weighs 7 ounces, 7 pennyweights; it was found at Stamford in Lincolnshire, in the reign of King Charles II.; and in 1777 was shewn to the Society of Antiquaries, which published an engraving of it in the *Archæologia*, Vol. iv., with an interesting paper by John Charles Brooke, Gent. Rouge-Croix Pursuivant, particularly illustrating the Armorial ensigns which are delineated upon it.

II. BIOGRAPHICAL NOTICE OF POPE INNOCENT THE THIRD.

Lothario Conti, the family name of this Pontiff, was born at Anagni, a City in the Campagna di Roma, about the year 1161; and was descended from the noble House of Conti, Lords of Segni. Being intended for Holy Orders, he commenced his studies at Rome, and afterwards continued them at the University of Paris, where he received the title of Doctor. He then proceeded to Bologna, where also he distinguished himself by his talents and the knowledge he displayed in philosophical, academical, and classical learning; and, upon his return home from this scholastic career, he received the office of Canon in the Church of Anagni, and shortly after the same degree in that of St. Peter at Rome. By the Pontiffs Gregory VIII., and Celestine III. he was ordained into Cardinal-Deacon's Orders; and, upon the decease of the latter in 1198, he was elected to succeed him by a large proportion of the Conclave of Cardinals: which dignity, after receiving the order of Priest, he entered upon in the thirty-seventh year of his age, assuming the surname of Innocent the Third.

The glory and power of the Romish See now became his principal object; and the City of Rome, the Marche of Ancona, the Dukedom of Spoleto, and several Cities of Tuscany, he subjected to himself as Sovereign, and to the Apostolical authority, notwithstanding their allegiance to their respective rulers,

He also demanded the liberty of the Archbishop of Salerno, who had been detained by Henry VI., the late Emperor of Germany, as a traitor; and through the powerful declaration of interdicting the whole country, submission was at length enforced. In some instances, however, his arbitrary spirit was exerted in causes of real utility; for Philip II. of France having put away his Queen to espouse another, Innocent pursued him with the denunciations of the Church, until he again restored his former consort.

Early in 1199 this Pontiff was made Regent of Sicily, by the will of Constantia the late Empress, and widow of Henry V., her son Frederick being then a minor; and in the commencement of the thirteenth century, the kingdoms of Armenia, Bohemia, Arragon, and several smaller states, with the City of Constantinople, became dependant on the See of Rome. As at this period King John ascended the throne of Britain, the ambition of Innocent watchfully regarded the movements of the Monarch; and an opportunity very soon occurred to prove the Pontiff's authority in England, in his nomination of Cardinal Langton to be Archbishop of Canterbury, upon the death of Hubert Walter, as it has already been related. He compelled the Monks, even against their own inclinations and the directions of their Sovereign, to make choice of that Ecclesiastic; and, having consecrated him at Viterbo, he shortly after sent him to John with the following letter, and four emblematical rings to induce his compliance.

"CONCERNING FOUR RINGS SENT BY POPE INNOCENT III. TO KING JOHN.

"To John the King of England. Of all the works of earth which the eyes of mortals covet, and which the flesh desireth, the most pure gold and precious stones have principally obtained our estimation. But however these and the like riches are to be prized, Your Royalty should abound with other excellencies: yet, nevertheless, in token of our great love and favour, We have prepared for You Four Golden Rings, with various precious stones, in which We desire you specially to understand their Form, their Number, their Material, and their Colour; inasmuch as a more excellent meaning attends the gift.

"Their *Roundness*, therefore, signifies Eternity, which is without beginning or end; and Royalty should have the virtue which is required by this form, considering that earth is the passage to heaven, and that temporality proceedeth out of eternity. Their *Number* of four, also, whose own number is a perfect square, signifies Firmness of mind, which is neither depressed by adversity, nor elevated by prosperity; and what is praiseworthy to be accomplished, is commonly done with the *four* principal Virtues; namely, Justice, Fortitude, Prudence, and Temperance. Understand, therefore, firstly, Justice, as exercised in judging; secondly, Fortitude, as shown in adversity; in the third place, Prudence, as watchful in doubt; and fourthly, Temperance, as not discarded even in prosperity.

"For their *Materials*, by the fine gold is designated Wisdom; which, as gold is pre-eminent over all metals, so doth the gift of Wisdom surpass all others, as the Prophet witnesses, saying, The

Spirit of Wisdom shall rest upon him, &c. Indeed, nothing is more fitting that a King should have: and accordingly the pacific King Solomon prayed of the Lord for Wisdom only, that he might know how to govern the people committed to him. Moreover in the precious stones, note that the green of the Emerald, signifies Faith; the mildness of the Sapphire, Hope; the redness of the Ruby, Charity; and the brilliancy of the Topaz, good works; of which the Lord hath said, Let your lights so shine. From these, therefore, you have in the Emerald what you should believe; in the Sapphire what you should hope; in the Ruby what you should love; and in the Topaz what you should practise: so that you may rise from virtue to virtue, until you come to the sight of the Lord of Lords in Sion. Given at Rome at St. Peter's, the 4th of the Calends of June." (May 29th, 7th of John, 1205.)

"It is difficult," says Rapin, after detailing the above transaction, "to guess at the drift of this mysterious letter: as to whether it was a witty conceit of the Pope's, or an intimation to the King that he would require all the virtues represented by the rings to withstand his attacks. However this might be, lest John should mistake his meaning, he sent him soon after a more intelligible brief; exhorting him to own Cardinal Langton for Archbishop of Canterbury." How these circumstances ended has been already related.

But it was not to England alone, nor indeed to any one nation, to which the arrogance of this Pontiff was confined: Philip King of Germany, Otho Emperor of Saxony, and Raymond Count of Thoulouse, all felt its severity; and even the Twelfth Lateran Council, which sat in the year 1215, served more as a register of his decrees, than an assembly convened for ecclesiastical deliberation. But Innocent's active and ambitious life was then drawing towards a close:—when John had again submitted to his authority, he excommunicated the English Barons for persevering in arms against the King, which sentence was by them wholly disregarded. After this, in 1216, whilst on a journey for the purpose of exciting the Pisans and Genoese to unite against the Saracens, he fell sick at Perugia, the capital City of a Province of that name near Rome, and there at the age of fifty-five, he expired; after a sway of eighteen years and about six months.

With respect to his ecclesiastical acts, he passed a Canon forbidding an increase of Religious Orders, and several laws

against heresy; he is also said to have introduced the doctrines of Transubstantiation and Auricular Confession, and he encouraged the Crusades both in Palestine and against the Albigenses: the greater part of these decrees being instituted at the Lateran Council. The literary works of this Pontiff are very numerous, and consist of tracts, &c. on a variety of religious subjects in Latin; such as Sermons on the Saints and Festivals for the whole year; a Commentary on the seven penitential Psalms, six books on the mysteries of the Mass, five books of Decretal Constitutions, a treatise on Contempt of the World and Human Misery, in three books, two books of Epistles, &c. &c. Of these, the last two are perhaps the best and most popular, and his letters are particularly valuable as giving considerable information on the Canon Law and Ecclesiastical history of his time. Nearly all his works were published separately, and a collected edition of them appeared at Cologne in 1575, folio.

From the circumstances of Innocent's life, his character may readily be deduced: ambition was its leading feature, and few men were ever more pre-eminently situated for the gratification of that passion. Pride was another vice which powerfully influenced him; and to these some biographers have added avarice and cruelty. To reverse the medal; his learning was very extensive, as the writings he has left will testify; his policy and knowledge of Canon law were magnificent, and, in fine, as Mr. Berrington has observed of him, "the maxims of the age must not be forgotten. They will throw some veil over the actions of Innocent; will extenuate the intemperance of his measures, and blunt the edge of censure."

III. BIOGRAPHICAL NOTICE OF PHILIP THE SECOND, KING OF FRANCE.

This very eminent Sovereign was the son of Louis VII., King of France, surnamed the Young; by Alix, or Adela de Champagné, daughter of Count Thibaud. As the birth of the royal heir had been long expected, and still longer

wished for, some peculiar circumstances attended the consummation of this event, which Montfaucon thus details, "All France," says that learned Historian, "rejoiced at the birth of Philip, who was called the gift of God. The Queen Alix was delivered of this Prince on the night of Saturday, in the Octave of the Assumption of our Lady, in the year 1165. The messenger who was sent to St. Germain des Prés with the intelligence, arrived whilst the first verse of this canticle was singing: 'Blessed be the Lord God of Israel, who hath visited and redeemed his people;' which was in perfect agreement with the birth of the child so long desired. On the morrow, the King caused him to be baptised in the Church of St. Michael; when Maurice, Bishop of Paris, performed the ceremony in his pontifical robes; Hugh, Abbé of St Germain, held him at the font; the Abbé of St. Victor and the old Abbé of St. Genevieve were his godfathers, Constance, sister of King Louis, wife of Raymond, Count of Thoulouse, and two widows of Paris were his godmothers; and these gave to him the name of Philip."

In 1180 Louis VII. was seized with a paralytic, which finally put an end to his existence; yet not till he beheld in the young Philip, the symptoms of that greatness to which he afterwards attained. During the languishing state to which the King was reduced, he saw with satisfaction the protection which his son afforded to the Church, by subduing those of the French Lords who oppressed it. On June 1st, being Ascension-day in the same year, Philip was united to Isabella, daughter of Baldwin, Earl of Hainault, a relative of Philip, Earl of Flanders, sword-bearer to the King. When this marriage was solemnised, as the life of Louis was trembling on the last frail chords of mortality, the splendours of a coronation were added to the other ceremonies, and Philip and Isabella were crowned and anointed. Louis died on the 18th of September following, at the age of sixty, and Philip, then fifteen, though nominally under the protection of the Count of Flanders, was made sole master of the kingdom of France. The first act of his reign, was the expulsion of all Jews from his realm, and the transforming of their Synagogues into Churches; which was oc-

casioned by their alledged brutal conduct towards the Christians. This, however, was succeeded by a more honourable employment, the decoration of Paris with the most elegant specimens of architectural composition, and the formation of a forest for beasts of the chase; towards the furnishing of which, Henry II., King of England, caused a search to be made through his dukedoms of Acquitaine and Normandy.

Stephen, Count of Chatillon upon the Loire, was the first nobleman who opposed the young King; for, with the view of rendering himself independant of Philip, he erected so strong a fortress that he believed it invincible; but that Sovereign attacked it, rased it to the ground, and made Stephen his prisoner; with whom, on his submission, he became reconciled. But the first years of the young Philip were much harrassed by great outrages committed in his country by the Brabançons, and contests between his mother Alix, and his father-in-law, the Count of Flanders; which were concluded only through his firmness and activity.

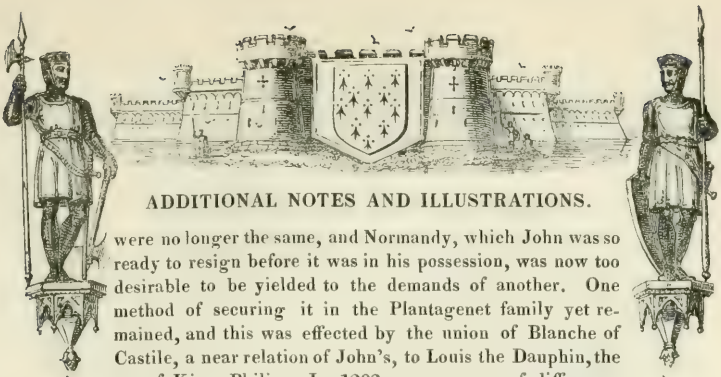
In 1184 Philip was engaged in a war with the Count of Flanders, relative to the Principality of Vermandois, which had been ceded to his father's possession for a certain period; the King on the decease of the Countess of Flanders re-demanded it, and after many useless consultations open war was declared between the contending parties, in which Philip's success was so great, that the Count at length yielded the possession, receiving St. Quintin and Peronne to hold for his life only.

In 1187 the Sultan Saladin took the City of Jerusalem, which awakened all the zeal of Henry II. and Philip, who resolved to suspend the differences then existing between them, and to unite against the Turks in the cause of the cross. The violent temper of Prince Richard, caused him, however, to attack the territories of Raymond, Count of Thoulouse, in consequence of some pretensions which the Dukes of Acquitaine held in that country. Philip, who was the superior lord of Raymond, first endeavoured to dissuade Richard from the enterprise, and then retaliated by invading the possessions of Henry II. in France. That King imme-

diately marched against him, and some battles ensued; but Richard at last sullied his glory by concluding a peace with Philip, and joining the French forces against his father, as it has been already related in the Memoir of King John. On the succession of Richard I. to the Crown of England, the two Sovereigns were once more in connection to carry on the war in Palestine: some differences, however, arose between them, but the City of Acre was at last taken by their exertions, when Richard made considerable slaughter, in consequence of Saladin's disagreement to his terms of capitulation.

After this, Philip who was as much affected by jealous emulation, as by bodily infirmity, left the English King in Palestine and returned to France, where, his first consort having died in May 1190, he married Ingelburga, sister of Canute, the reigning King of Denmark, at the City of Amiens. Whilst Richard was left alone in Palestine, his brother John entered into that dishonourable compact with Philip for seizing upon the crown of England, of which the reader has had an account upon a former page. Whether the charms of the King of Denmark's daughter had declined, or Philip desired another, is now uncertain; but after the wedding-night such was the dislike he entertained against her, that he procured a sentence of divorce on account of a distant affinity, and whilst Ingelburga retired to the solitude of a convent, Philip, by virtue of this instrument, was married to Agnes, the daughter of the Duke of Merania. The powerful authority of Pope Celestine was then interposed on the behalf of the divorced Queen, and this last marriage was pronounced void. When Innocent III. was elected to the See of Rome, Philip still refused to receive the Princess of Denmark to the throne; but as that Pontiff was of too haughty a temperament to brook any opposition, even from a Sovereign, he interdicted the whole kingdom of France, and at length obliged Philip to allow Ingelburga the title of Queen, although she enjoyed its honours in the retirement of a distant château.

The compact which cemented John and Philip together in King Richard's reign, was now dissolved; their interests



were no longer the same, and Normandy, which John was so ready to resign before it was in his possession, was now too desirable to be yielded to the demands of another. One method of securing it in the Plantagenet family yet remained, and this was effected by the union of Blanche of Castile, a near relation of John's, to Louis the Dauphin, the son of King Philip. In 1202 a new cause of difference arose between the French and English Sovereigns, in John's supposed murder of Arthur, Duke of Bretagne; which was succeeded by that series of wars and truces between them, of which the story has been already recited, wherein Philip was generally victorious by land, although the English were in a great measure successful by sea. A peace for five years was at length concluded, but during this period, Prince Louis was invited to join the English Barons; which deceit, whilst Philip affected to discountenance, he secretly encouraged and supported. When the five years had expired, a renewal of hostilities took place with King Henry III.; this was succeeded by another truce, and shortly after, in 1223, Philip died, whilst his son Louis was engaged in a Crusade.

It is usual to assign to this Monarch, the great virtues and honour which were so conspicuous in the reign of Augustus Cæsar; but if nationality be allowed for, Montfaucon has given as fair and moderate a character of the Prince as can now be drawn, with which this sketch of his life may well be concluded. "Philip," says he, "was one of the greatest Kings which France has had; wise, deliberate, of brave deportment, and enterprising. He expelled the English from Normandy, Anjou, Maine, and the greater part of Acquitaine, and by so doing extended the boundaries of his kingdom. But fortune had a material part in these conquests; for if Richard the Lion-hearted, had not died young, there seems much fear that, through the violence of so powerful an adversary, some of his undertakings would have failed. Historians accuse him of having been oppressive to his people. He reigned forty-four years, beginning at the time when he was declared King by his father."

ADDITIONAL NOTES AND ILLUSTRATIONS.

IV. BIOGRAPHICAL NOTICE OF CARDINAL PANDULPHUS.

Vide the preceding Essay, pages 18-22.

But little is now known concerning this once celebrated religious ambassador; and, indeed, the lives of the ecclesiastics of his period, present scarcely any thing beside the monotonous acts of conventual seclusion, or the more inconsistent histories of clerical ambition. But although Pandulph certainly partook of these general characters of his age, yet he was at the same time well qualified, both by his natural and acquired abilities, to fill the most important political offices with honour to his own country. From those authors who have had occasion to mention the Cardinal, such as Ciaconius, Vossius, Auberi, Moreri, and Blomefield, the following brief notices have been collected.

Pandulphus, or Pandulfo, surnamed Di Masca, was a native of Pisa, and was created Cardinal-Priest in the year 1182 by Pope Luke III., by the title of Cardinal of the Twelve Holy Apostles. It would appear that he was considerably employed as a Legate; for in 1196 he was sent to Genoa by Celestine III., to compose the differences between the Pisans and the Genoese: in 1198 he was sent by Innocent III., in conjunction with another Cardinal, to Tuscia, to annul the league made by the Tuscan cities without the Pope's consent: and in 1207 he was sent by the same Pontiff with one Durand, a Knight-Templar, as Nuncio into England;[a] and whilst in this country he received the Bishopric of Norwich. After Pandulph was elected to that See, he preferred so many Italians to benefices in his own Diocess, and was otherwise so arbitrary in his proceedings, that Archbishop Langton at last appealed to the Pope concerning him, and inhibited his institution of priests in the Province of Canterbury. It is farther related of him that he died in Italy on September 16th, 1226, and that his body

[a] Vide a Copy of the Instructions given to these Ambassadors, in Rymer's Fœdera, new edition, Volume I., Part i., page 109.

was brought to England, and buried in Norwich Cathedral, although the particular spot is now unknown. He died rich, and is said to have been covetous; but he was, nevertheless, a benefactor to his Monks, and deposited in that Church several reliques which he had brought with him from Italy. With respect to his literature, it is supposed that he was employed upon a History of the Popes of Rome.

V. BIOGRAPHICAL NOTICE OF HUBERT DE BURGH, THIRD EARL OF KENT.

This Baron, whose name has been frequently referred to in the preceding pages, was descended from a brother of William Fitz-Adelme, Steward to King Henry II., and Governor of the City of Wexford in Ireland; and the earliest notice of him relates, that he was employed in the service of King Richard I., although the office which he held under that Monarch is now wholly unknown. In the the first year of the succeeding reign, whilst John was strengthening his interests at Rouen, De Burgh was sent on an embassy to Portugal to demand of King Sancho one of his daughters in marriage to the English Sovereign. John appears always to have entertained a high sense of Hubert's value; for having constituted him Chamberlain of his Household, about the year 1201 he placed him in the important office of Warden of the Welch Marches, with 100 soldiers under his command to support his authority in the Western provinces. In the same year the King also made him Sheriff of Cornwall, Governor of Landstaneton and Dover Castles, and commanded him to fortify that of Dunster, in the County of Somerset. He was likewise Sheriff of Dorset, Somerset, and Herefordshire, from 1201 to 1205; for Berkshire, for half of the King's fourth year 1203 to 1205; and for Lincolnshire for the fourth part of his tenth year, 1209, to the end of 1214, his fifteenth. Although the honours which Hubert de Burgh derived from King John, were of a nature that benefitted his Sovereign and his country rather

than himself, yet upon an assessment of Scutage in the kingdom of Scotland, he became responsible for fourteen Knights fees and a fourth part of the ancient feoffment, in his own right, for the Honour of Wirmegay; beside a fourth part more of the new feoffment, belonging to him by marriage with the relict of Dodo Bardolf, and two others brought to him by his second wife, daughter and heir of William de Norwich. In 1215 he was made Steward of Poictiers, and in the same year was constituted one of the King's Commissioners at the assembly of Runnemede; indeed John held Hubert's services in such great esteem, that after that event he raised him to the situation of Chief Justiciary of England, the same day on which Magna Charta was concluded, in presence of the Earls Warren, Ferrers, and many others of the nobility. On June 25th, De Burgh was made Sheriff of Kent and Surrey, and Governor of Canterbury Castle; within five days after Constable of Dover Castle; and on July 19th, Sheriff of Hereford, and Castellan of the fortresses of Norwich and Oxford. He was also entrusted with the custody of the Honour of Reyleigh on August 13th, and in October he had a grant of the Lordship and Hundred of Hoo in Kent, formerly belonging to Hugh Bardolf; and on November 19th, he was appointed one of the King's Commissioners to treat with Richard, fourth Earl of Clare, and the Barons at Erith Church, upon a peace to be concluded between the King and themselves. In the Baronial Civil Wars, De Burgh was wholly devoted to the King's cause, and when Louis the Dauphin of France attacked Dover Castle, of which he was Governor, with a few servants and about 140 soldiers, Hubert not only maintained that fortress for his forsaken master, but obliged Louis to retreat with considerable loss.

These were the actions and important services he rendered to his Sovereign, and in the succeeding reign, the honest integrity of his character was not less conspicuous. After Henry III. had ascended the throne of England, the Castle of Dover was still beseiged by Louis; who then urged its surrender to Hubert, alledging that King John being deceased, he was no longer bound by any ties to

defend it in his cause; at the same time adding, that he would reward him with great honours, and advance him to be chief of his council. De Burgh, however, replied, that although the King his master was no more, yet he had left issue to succeed him; though when he had related the Dauphin's proposal to his fellow-soldiers he would speak farther with him. All attempts to shake De Burgh's loyalty were in vain; the siege of Dover was raised, and the Barons and Louis returned to London, to pursue their purposes in parts more attached to their interests.

Though no victory was gained by this honest conduct, yet a material damage was effected to the opposing party; Dover Castle was an important post to aid the designs of Louis, and the sequel proved that by leaving it in the possession of the enemy, a considerable shock was given to their cause. A short time after the Dauphin and the Baronial army had returned to London, Lord Eustace de Moyne, with ten other French peers, came with a large fleet to the assistance of Louis; De Burgh with a trifling armament of eight ships put to sea, and, encountering the expedition, made their chief prisoner and then beheaded him. The minority of Henry III. had hitherto been under the prudent care and government of William Marshall, Earl of Pembroke; in the year 1219, however, that excellent Baron died, and Hubert de Burgh was appointed to succeed him in the execution of this important charge: in 1220, he was united at York, to Margaret, sister of Alexander II., King of Scotland; which ceremony took place in presence of the English and Scottish Sovereigns. In the same year he suppressed a great and dangerous insurrection in London, begun by one Constantine, a principal person in the City; and in 1223-24, the 8th of Henry III., he was made Governor of Arundel and Rochester Castles.

Trusted and trustworthy as De Burgh had proved, it is not surprising that the other Barons of England should display much discontent at his increasing power in the state, but it should at the same time be observed, that as Hubert was well acquainted with his own importance in Britain, he might have assumed, especially after having entered

into an alliance with King Alexander, a greater degree of dignity towards his fellow peers, than the equality of their rank allowed. But whether this haughtiness were real or imaginary, there was at any rate somewhat which inflamed the ardent minds of the impetuous Barons. Henry III. was at this period holding his Christmas at Northampton, when, says Dugdale, the Earl of Chester and Barons of his party signified to him, "that unless he did forbear to require their castles, and to hearken to the counsels of this Hubert, (who then carried himself higher than any Nobleman of England,) they would rise up against him, as one man. Whereunto though the King yielded not, this spark did not then break out into a flame: for the next ensuing year, (solemnising the Feast of Christmas at Westminster,) this same Hubert, by his special appointment, proposed to the Lords Spiritual and Temporal then present, an Aid for vindicating the injuries done to the King and his subjects in the parts beyond sea." Although it appears singularly strange that the anger of the Barons should sleep even for a moment, yet it is more surprising to find that by their advice in the year 1227, the King invested Hubert with the title of the Earl of Kent: but notwithstanding these symptoms of good will, their inveteracy to De Burgh was not in the least abated, and although Henry in a moment of passion and disappointment accused him of disloyal practices, yet his enemies waited for a more successful and remote period, when five principal articles, and several minor ones were charged against him. The ambitious star of Peter de Rupibus, Bishop of Winchester, which had occasioned so much contention in the reign of King John, had once more gained the ascendancy in the English Court; he first, in 1231, procured that Hubert should be removed from his offices of Chief Justiciary of England and Governorship of several castles, and then instituted against him so minute and unreasonable an enquiry, that he had a respite from prison, only until his answer to these charges should be prepared. The accusation of De Burgh by the Bishop of Winchester, seems to have been the signal for complaints of his oppressive conduct, deceit, and cruelty, from the whole kingdom; he was torn at various times from

the different Religious Houses and chapels, where he had endeavoured to shroud his defenceless head, and had it not been for the friendly interference of Ralph, Bishop of Chichester, the Archbishop of Dublin, and Roger, Bishop of London, in restoring him to these sanctuaries, his enemies would have carried their triumphs to an extent much more fatal.

It could not but happen that Henry should have some intervals, between these fits of his ungrateful anger; and when such occurred, he would reverse his decree of outlawry upon Hubert, set him again at liberty, and bear the strongest testimony to the loyalty and prudent government of this faithful subject. But when difficulties once more surrounded Henry, the enemies of De Burgh found it easy to persuade the King into the belief of his dishonesty; and thus, from the time he was first attainted, his life contained little more than the history of their triumphs. In 1239 he resigned into the King's own hand the greater part of his once immense possessions, and by this act again procured the approval of his royal master; but after this period till the time of his death, which took place in 1243, he appeared no more in the public services of a politician and a soldier. "After many troubles and interchanges of fortune," says Milles, in his Catalogue of Honour, "being full of dayes, and in good reputation, he departed this life, the fourth day of the Ides of May, in the year of our Lord, 1243, the 27th of Henry III., at his Castle of Berkhampsted in Hertfordshire. His body was honourably conveyed to London, and intombed in the Church of the Friars-Predicants, unto whom he in his life time had been an especial benefactor."

Hubert de Burgh was four times married: firstly, to Joan, daughter of Vernon, Earl of Devon, and relict of William de Briwere; secondly, to Beatrice, daughter of William de Warren, and relict of Dodo Bardolf; thirdly, to Isabel, daughter and coheir of William, Earl of Gloucester, and relict of Geoffrey de Mandeville, who had formerly been divorced from King John, from his desire for Isabel of Angoulême; and lastly, as already related, to Margaret, daughter of William, King of Scotland. By this lady he had two sons, John and Hubert.

ADDITIONAL NOTES AND ILLUSTRATIONS.

VI. ACCOUNT OF RUNNEMEDE, AND OTHER TOPOGRAPHICAL NOTICES CONNECTED WITH MAGNA CHARTA.

Vide Notes to the Great Charters, page 355.

The famous plain of Runnemede, upon which the First Magna Charta was concluded, is situate on the South-west banks of the Thames, between Staines and Windsor, in the Hundred of Godley or Chertsey, and the County of Surrey. The name of this meadow is sometimes derived from the river running beside it; but as it is affirmed by Leland to have been anciently used for national assemblies, and called Council-Mead, the title was probably adopted from the Saxon *Rune*, Council. The field itself contains 160 acres of strong good soil, let at 20*s.* per acre, and tithe-free; and is the property of ten persons, who have the sole use of it from March to August 12th, when it becomes common to all the Parish of Egham, which turns on an indefinite number of cattle. The last week in August it is used for races, with some enclosed lands adjoining, which are then thrown open to make a two-mile course. These amusements, with the erection of tents, trampling of horses, &c., destroy the herbage for the time, though it soons springs up again much improved and in great abundance. But though the name of Runnemede be usually connected with that of Magna Charta, it is supposed that only the Baronial army was encamped upon it; and that the King and principal parties to the covenant on both sides, withdrew to a small island, where it was actually concluded. This spot is still called Magna Charta Island, and stands in the Thames, not far beyond Ankerwyke in Buckinghamshire, to which there is a ferry from it for foot-passengers. The ferry-keeper's house stands on the island, almost hidden by the osiers with which it is covered; and an interesting view of it, engraven by Mr. W. B. Cooke, may be seen in Mr. James Hakewill's *History of Windsor*, London, 1813, 4to. page 336. The preceding particulars of Runnemede have been

derived from *The History and Antiquities of Surrey*, by the Rev. Owen Manning and W. Bray, Vol. III. page 249. London, 1814, folio; and Edw. Lye's *Dictionarium Saxonico et Gothico Latinum*. London, 1772, fol. Vol. II. in voce *Rune*.

With the present illustrations may also be noticed another remarkable spot in the County of Surrey, which popular tradition has likewise connected with Magna Charta; as having been the place where the Barons secretly met to consult upon their proceedings. This is the celebrated cavern and hall beneath the site of Reygate Castle; of which a ground-plan and description may be seen in the *History of Surrey*, already cited, Vol. I. London, 1804, pages 293, 294. The excavation is formed under the Castle-hill, from the top of which it is entered by a flight of steps to the depth of 18 feet, covered with a building of a pyramidical shape. The passage then descends with a regular declivity, without steps, for 26 feet farther; and the whole length of the avenue leading to the principal cave is 235 feet. Its shape is angular, consisting of two unequal arms; one leading to the entrance on the summit of the hill, and the other, passing through the dry fosse of the Castle, is supposed originally to have communicated with the town of Reygate, but the avenue is now broken down, and the arch and cavity are stopped up. Out of this passage, which forms the longest arm, a narrow entry 27 feet long, issues at an obtuse angle, and leads into a chamber, or hall, 123 feet in length, 13 feet wide, and 11 high; of a curved form and octangular at the end, in one part of which is a crypt, 50 yards in length, surrounded by seats of stone. All these excavations are vaulted with pointed arches.

Reygate Castle was anciently one of the principal seats of the Earls of Warren and Surrey, in England; and in the time of King John was held by William Plantagenet, the sixth Earl of the County. In the Civil Wars of the time he remained neuter, and was one of the Barons who were forced by the others to take arms against the King, see the present volume, pages 28, 321; but his name appears on John's party in the opening of Magna Charta, vide pages 64, 65.

His reluctance in joining the insurgents, lost him his Castle in 1215; though it was restored to him again in June, 1216, soon after the landing of Louis the Dauphin. These circumstances almost entirely disprove the tradition before-mentioned concerning the Reygate excavations; though they doubtless might have been occasionally used for private deliberations in times of public discontent, as well as depositories for treasure and military stores, or the security of prisoners.

VII. CHRONOLOGICAL TABLE

OF THE SEVERAL

CHARTERS OF LIBERTIES, WRITS, ACTS OF PARLIAMENT, AND CONFIRMATIONS, CONNECTED WITH THE ANCIENT LAWS OF ENGLAND.

The Descriptive Account of the English Charters, &c. on pp. 394-460, having shewn that they were very numerous, it has been considered an important addition to it, to furnish the reader with an abridged list of those instruments, their dates, original language, depositories, &c. &c. which may be more easily consulted and referred to.

INSTITUTIONS OF THE ANCIENT ENGLISH LAW.

A. D.

590 The Law of the Land translated from the British into Saxon.

610. English Laws first published.

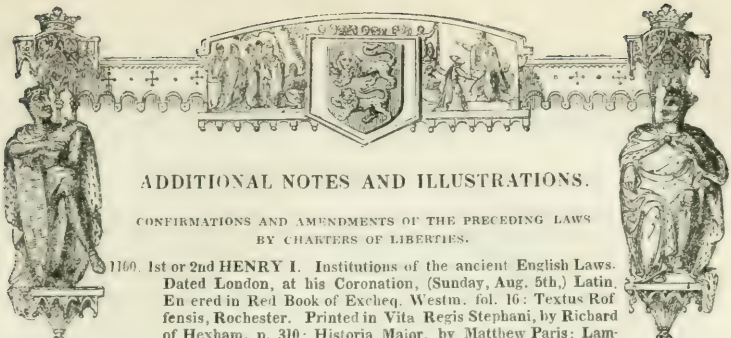
877, or 890. 19th year of ÆLFRED, who begins compiling the Anglo-Saxon Common Law. Written in Saxon. See Wilkins' Leges Anglo-Saxonicæ, p. 28, and the present volume, p. 396.

966. 9th EDGAR, who extends and establishes it. Saxon. Wilkins, p. 76, and p. 396 of the present volume.

1015. 2nd CANUTE, whose Constitutions are established at Winchester in form of a Charter. Saxon. Wilkins, p. 126, and pp. 396, 397 of the present volume.

1065. EDWARD the CONFESSOR, who establishes his combined Laws throughout England. Probably originally composed in Saxon. Wilkins p. 197, and p. 397 of the present volume.

1069. 4th WILLIAM I., who recites and confirms them. Saxon, Latin, and also supposed in Romance French. See pp. 398-400 of the present volume Wilkins, pp. 197, 211-231. Printed in Rymer's Fœdera, new edit. I. part i. p. 1., from the Red Book of the Exchequer at Westminster, Rapin's History of England, I. 282. Tyrrell's History of England, II., part ii., appendix i.



ADDITIONAL NOTES AND ILLUSTRATIONS.

CONFIRMATIONS AND AMENDMENTS OF THE PRECEDING LAWS BY CHARTERS OF LIBERTIES.

1100. 1st or 2nd HENRY I. Institutions of the ancient English Laws. Dated London, at his Coronation, (Sunday, Aug. 5th,) Latin. Entered in Red Book of Excheq. Westm. fol. 16: Textus Roffensis, Rochester. Printed in Vita Regis Stephani, by Richard of Hexham, p. 310: Historia Major, by Matthew Paris: Lambarde's Archaionomia, p. 175: Wilkins, p. 231: Histories of England, by Tyrrell, ii. part i., 114. append. 5, and Rapin, I., 283. Blackstone's Introduction to the English Charters, Statutes of the Realm, I., p. 1., and the present volume, pp. 400-404.

1136. 1st STEPHEN. *Charter of General Liberties.* At London. Latin. Entries in Cottonian Manuscripts in the British Museum, Claudius D. II., fol. 68 b. Printed in Tyrrell, Rapin, Blackstone's Introd., Stats. of Realm, I. 4., Wilkins 310, and the present volume, p. 409.

. *Charter of Ecclesiastical Liberties.* Oxford. Latin. *Original* in Archives of Exeter Cathedral. Entries in records of Canterbury Cathedral Reg. v. fol. 14, ix. fol. 72. Printed in T. Hearne's Gulielmus Newbrigensis. p. 711.; Rich. of Hexham, p. 314; Tyrrell ii. p. i. 203. App. 7.; Rapin i. 284; Stats. of Realm, I. 3. Blackst. Introd., and the present volume, pp. 404-408.

1154. 1st HENRY II. *Confirmation of the Charter of Henry I.* Westm. Latin. Entries in Cotton. MSS. Claud. D. II. fol. 75 b. Printed in Tyrrell ii. part i. 299, App. 8. Wilkins p. 318: Blackstone's Introd., Stats. of Realm, I. 4. and the present volume, p. 409.

1175. 21st Henry II. Laws of Edward the Confessor confirmed. See the present volume, p. 410.

1214. 16th JOHN. *Charter for the freedom of Ecclesiastical Elections.* New Temple, London, Jan. 15th, and Nov. 21st. Latin. Entries in Records of Cant. Cathed. Reg. v., fol 14 b.: Red Book of Excheq. Westm. fol. 273 b, 267 b. Rymer's Fœd. I. i., 126; Stats. of Realm, I. 5. Confirmed by Papal Bull, 30th March, 1215, see Rymer as before, and the present volume, pp. 410, 411, 417, 418.

1214. 16th John. Letters Patent declaring that neither the King nor his officers shall forcibly capture or dispossess any of his Barons, excepting by the legal judgment of their peers and the law of the land; (vide Magn. Chart. Reg. Joh. chap. xxxix. pp. 82, 83,) that all disputes shall be referred to the Holy See and 8 arbitrators, 4 on each part; and naming the Bishops of London, Worcester, Chester, Rochester, and William Earl of Warren, to act in the interim. Windsor, May 10th. Latin. Entered on Patent Rolls, 17th John, part i., membr. 3 d, No. 2. Printed in Blackst. Introd.

1215. 17th John. Letter from the King to Pope Innocent III., relating the dispute between himself and his Barons, concerning liberties and grievances. Odiham, May 29th, Latin. Entered on the Close Rolls 17th Joh. membr. 24 d. Printed in Rymer's Fœd. I. i. 129: Prynne ii. 345.

. Writ of Safe-conduct to the Barons assembling at Runnemede. Merton, June 8th. Latin. Entered on Pat. Roll of the year, membr. 24. Continuation of ditto. deferring the meeting to Trinity Monday. Windsor, June 10th. Latin. Pat. Roll as above. Printed in Rymer's Fœd. I. i. 129. Blackst. Introd.

ADDITIONAL NOTES AND ILLUSTRATIONS.

1215. 17th JOHN. *Articles of Magna Charta.* Latin. *Original* in Brit. Mus. Donation MSS. No. 4838. Entries in Archiepiscopal Library, Lambeth Palace, 3 Selden 1995. Printed in Rymer's Fœd. I. i. 129, Blackst. Introd. Stats. of Realm, I. 6, and the present volume, pp. 49, 420-422.

. MAGNA CHARTA. Runnemede, June 15th. Latin. *Originals*, two in Cott. MSS. Brit. Mus. one being contained in Augustus II. 106; others in Archives of Lincoln and Salisbury Cathedrals. *Printed* in Latin in Brady's, Tyrrell's, and Rapin's Hist. of England, Blackstone's Charters, Rymer's Fœd. new edit. Stats. of Realm. Copies and Translations in Brady, Tyrrell, ii., 821, and append. 9, Rapin, Stats. of Realm, and the present volume, p. 63. A French translation is contained in D'Acheri's Spicilegium, xii., 573, though it is very doubtful if John's Magna Charta were ever published in that language. See the present volume, p. 430. Ancient Manuscript *Entries* of this Charter are very numerous, being in the Charter Rolls, the Red Book of the Exchcq. Westm. a Register in Gloucester Cathedral, Cott. MSS. Claud. D. II., and Harl. MSS. No. 746, Brit. Mus. &c. &c. See also the present volume, pp. 422-428, for a farther account of them.

. *Letters Testimonial of the Clergy, reciting Magna Charta.* Latin. Entered in Red Book of Exchcq. Westm., and collated in Blackst. Charters. See also the present volume, pp. 325, 429.

. *Covenant of Security with the Barons.* Latin. Entered on Close Rolls, membr. 27 d, 21 d. Printed in Blackst. Charters, Rymer's Fœd. and the present volume, pp. 102, 430.

. *Protest of the Bishops concerning the Forest Clauses in Magna Charta.* Latin. Close Rolls, as above. Printed in Blackst. Charters, Rymer's Fœd. and the present volume. p. 7.

. *King's Writ for electing Knights to enquire into Forest franchises.* Runnemede, June 19th. Latin. Entered on Pat. Roll, membr. 23 d. Printed in Blackst. Introd. Rymer's Fœd. and the present volume, p. 323.

. *King's Writ for dismissing his foreign soldiers*, according Chap. li. of Magna Charta. Runnemede, June 23rd. Latin. Entered on Pat. Roll, membr. 23, No. 110, Printed in Blackst. Introd. and the present volume, p. 247.

. *King's Writ for causing all persons to swear to the* 25 *Barons.* Winchester, June 27th. Latin. Pat. Rolls, 17th John membr. 21, No. 105. Printed in Blackst. Introd. Rymer's Fœd. and the present volume, p. 322. French translation in D'Acheri's Spicilegium, xii. 573.

. *Bull of Innocent III. vacating Magna Charta.* Anagna, Sept. 24th. Latin. Printed in Rymer's Fœd., Prynne's Records, ii., 342. Blackst. Introd.

1216. 1st HENRY III. *Magna Charta.* Bristol, Nov. 12th. Latin. Archives of Durham Cathed. *Orig.* Domesday Book of York Cathed. Blackst. Charters, Stats. of Realm, and the present volume, p. 105. A Latin Letter from the King to the Chief Justice of Ireland, entered on the Close Roll of this year, membr. 14 d, 25 d, and printed by Blackstone, contains an account of this grant, a copy of which was sent to Ireland with a Writ dated Gloucester, Feb. 6th. Entered on the Pat. Roll, membr. 13. The Irish Charter is entered in the Red Book of the Exchcq. at Dublin, and was

collated by Blackstone, and the Writ is printed in Rymer's Fœd. I., i., 146, Blackst. Introd., and in the present volume, p. 116. See also p. 430.

1217. 1st Henry III. Writs for the publication and establishment of Magna Charta throughout England. Chertsey, June 23rd. Close Roll, membr. 10. d. Printed in Blackst. Introd.

. *Magna Charta*. Latin. *Orig.* in Bodl. Libr. Oxf. MSS. Furney No. 5. Anc. Entries in Domesd. Book, York; MSS in Archives of Gloucester Cathed. and City of London, Liber Custumarum, fol. 27, b.; Bodl. Libr. Laud. F. 119., Marsh 132., Hatton 28., N. E. F. 2, 4, i., Public Library Cambridge, E. e. I. 1., E. e. 2 9., H. h. 3. 11., L. 1. 1. 10., d. 18; Harl. MSS. Brit. Mus. No. 493, fol. 42; 746, fol. 59; 867, 869, 946, 1033, 1120, 4975; Inner Temple Libr. MSS. Petyt, 9; Libr. Trinity and Corpus Christi Colleges, Cambridge, D 1. Printed in Blackst. Charters, Stats. of Realm, and the present volume, p. 118. See also p. 431.

. First FOREST CHARTER. St. Paul's Lond. Nov. 6th. Latin. *Orig.* in Archives of Durham Cathed. Entered in Black Book in Cathed. of Christ Church Dublin, Domes. Book of York, Lib. x. in Excheq. and the MSS. above cited. Printed in Stats. of Realm, and the present volume. p. 329.

1217-18. 2nd Henry III. *King's Writs directing observance of the Charters*. Sturminster, Febr. 22nd. Latin. Entered on Close Roll, membr. 11 d. Printed in Blackst. Introd., and the present volume, pp. 237, 326, 433-435.

1218. 2nd Henry III. *Writ for Forest Perambulations*. Leicester, July 24th. Latin. Entered on Pat. Roll, part ii. membr. 2. Printed in Blackst. Introd., and the present volume, p. 343.

1219. 3rd Henry III. Entry of the expenses of the preceding Perambulation, charged on the Counties of Dorset and Somerset. Latin. Great Roll of the Exchequer, 14 b. Printed in Madox's Hist. of Excheq. p. 285, note g. Blackst. Introd., and the present volume, p. 343.

1222. 7th Henry III. Writs to the Sheriffs of England, to make enquiry, by the oath of twelve Knights in each county, what liberties, &c. belonged to King John. Jan. 30th. Latin. Close Roll, membr. 14. d. Printed by Dr. Brady, i. Append. 168.

1224-25. 9th Henry III. *Magna Charta*. Westminster, Feb. 11th. Latin. *Originals* in Durham Cathed., Lacock Abbey, Wilts. Entered on the Littleton Roll, Ledger Book, Durh. Cath. Cart. I. fol. 194. Red Book Excheq. Westm. fol. clxxxiij. Printed in Blackstone's Chart., Stats. of the Realm, and the present volume, p. 131. See also pp. 435, 436. From a passage in a Latin letter from Henry III. to the Archbishop of Dublin, printed by Prynne, iii. 64. it is supposed by Blackstone, that this and the following Charter were both transmitted to Ireland.

. *Forest Charter*, same date. Latin. *Original* at Durham Cathed. Entered in Ledger Book in same Arch. cart. iii. fol. 211. Printed in Blackst. Chart. Statutes of the Realm. See page 437 of the present volume.

1236-37. 21st Henry III. *Confirmation Charter*. Westminster, Jan. 28th. Latin. *Original* in Bodl. Libr. Oxf. MSS. Furney, No. 6. Entries in Cott. MSS. Brit. Mus. Galba E iv. 57. Chart. Roll. membr. 7. No. 4. Printed in Blackst. Chart. Stats. of Realm, and the present volume, p. 369. See also pp. 376, 437.

ADDITIONAL NOTES AND ILLUSTRATIONS.

1237. 21st Henry III. *Writs to Sheriffs of England, commanding the Charters to be observed.* Westminster, May 26th. Latin. Entered on Close Roll, membr. 15. Printed in Blackst. Introd.

1251-52. 36th Henry III. *Magna Charta.* Westminster, February 11th. Latin. *Original* in Cott. MSS. Augustus II. Art. 51. Printed in Stats. of the Realm, and referred to in the present volume, pp. 144, 437.

1253. 37th Henry III. *Sentence of Excommunication* Westminster, May 13th. Latin. Entered in Red Book of the Excheq. Westm. Printed in M. Paris, Matt. of Westm. Annals of Burton, Walter Hemingford, Stats. of the Realm, and the present volume, pp. 377, 438.

1264-65. 49th Henry III. *Confirmation Charter.* Westminster, March 14th. Latin. Charter Roll, membr. 4., Libr. Corp. Christi Coll. Camb. No. 70., Cotton. MSS. Brit. Mus. Claud. D. II. fol. 137. Printed in Blackst. Chart. Stats. of Realm, and described at pages 377-380, 438, of the present volume.

. *Inspeximus* grants of *Magna Charta* and *Charta Foresta*, same date. Latin. Harleian MSS. Brit. Mus No. 489, fol. 4 a-10 b, and the Manuscripts cited in the last article. See pp. 380, 438, of the present volume.

1267. 52nd Henry III. Statute of Marlebridge, Novemb. 18th. Chap. v. Latin. Red Book Excheq. Westm., Close and Patent Rolls at the Tower, Cott. MSS. Claud. D. II. Printed in Blackst. Chart. Stats. of Realm, and page 381, of the present volume.

1285. 13th EDWARD I. Form of Confirmation of Charters. Latin. Close Roll, membr. 7, in cedula. Printed in Stats. of Realm. See also page 382, of the present volume.

1297. 25th Edward I. The Earls of Hereford and Norfolk publish a kind of manifesto in the names of the other Barons and Prelates, complaining of grievances, and the neglect of the two Charters. Histories by H. Knyghton and Tho. Walsingham, and Blackst. Introd. To this the King replied by a Patent, dated Odymere, near Winchilsey, Aug. 12th. (Latin) promising to amend these grievances, and confirm the Charters, if an aid were granted for the war in Flanders. Entered on Patent Roll. part ii. membr. 7. Printed in Brady's Hist. ii. Append. 20. To effect these intentions, a Parliament was summoned to meet on Oct. 6th, the Writs of Summons to which stated that it was to confirm the Charters, and grant an aid which should not be made a precedent.

. Patent from the King in answer, promising to amend those grievances and renew the Charters, on condition of an aid. Odymere, near Winchilsey, Aug. 12th. Latin. Entered on Patent Roll, part ii, membr. 7. Printed in Brady's Hist. ii. Append 20.

. Writs of Summons to a Parliament for confirming the Charters, and granting the foregoing aid, to meet at London, Oct. 6th. St. Paul's, London, Sept. 15th. Latin. Entered on Close Roll, membr. 6 d. Printed in Rymer's Fœd. I. Prynne iii. 736. and Blackst. Introd.

. Statute called Confirmatio Chartarum. London, Oct. 10th. French. Entered on Stat. Roll, membr. 38. Printed in Stats. of the Realm, Blackst. Chart. and the present volume, pages 369-373, 383-389, 440-442.

. *Inspeximus of Magna Charta 9th of Henry III.*

Westminster, Oct. 12th. Latin. Original in Archives of City of London. Entered on Stat. Roll, membr. 38. Printed in Blackst. Chart. Stats. Realm. See the present volume, pp. 145-158, 383, 438.

1297. 25th Edward I. *Inspeximus of the Forest Charter.* Same date. Latin. Entered on Stat. Roll. MS. in Archives of Gloucester Cathed. and a French translation in Harl. MSS, No. 5326. See the present volume, p. 439.

. *Confirmation Charter.* Ghent, Nov. 5th. French. *Original* with Cotton. Charters Brit. Mus. VII. 9. Harl. MSS. No. 5326. See the present volume, pp. 369-373, 383-389

. Sentence of the Clergy on the Confirmationes Chartarum. Latin. Harl. MSS. No. 667, fol. 14. See p. 389 of the present volume.

1299 27th Edward I. *Writs to the Sheriffs of England commanding the Charters to be observed, reciting the Forest Charter, and promising a Perambulation of the Forests.* Latin. London. March 26th, April 2nd. Entered on Close Roll, membr, 17 d. Stat. Roll, membr. 37. Printed in Prynne, iii. 842-844.

. A Confirmation of the two Charters, recorded to have been issued at a Parliament held about the beginning of the ensuing May. See Brady's Hist. ii. 65; and those by N. Trivet, T. Walsingham, and W. Hemingford.

. *Writs to the Sheriffs of England, postponing the Forest Perambulations until after the harvest, and promising that the Perambulators should meet at Northampton by Michaelmas day at the farthest.* June 25th. French and Latin. Entered on Bundel. brev. for the year. Printed in Prynne, iii. 810. See also page 45 of the present volume.

. Statutum de Finibus levatis. Latin. *Original* with Cott. Charters, VII., 11., Coke's Institutes. Stats. of Realm. See p. 390 of the present volume.

1299 1300. 28th Edward I. *Confirmation Charter*, Lincoln, Feb. 14th *Original* in Bodl. Libr. Oxf. MSS. Furney, No. 8. See the present volume, pp. 374, 375, 393, 443.

. Statute of Articuli Super Cartas. London, 6th March. French. *Original* in Oriel College, Oxf. Entries on Stat. Roll, membr. 35. Printed in Coke's Instit., Blackst. Introd. Stats. of Realm. See also pages 46, 391, of the present volume.

1309. 28th Edward I. *Inspeximus of Magna Charta.* Westminster, March 28th. Latin. Archives of the City of London, Durham Cathed. Oriel College, Oxf. Town Records of Appleby, Westmoreland, Collegiate Church of Westminster, *Originals.* Entered in Red Book of Exchcq., Westm., Stat. and Charter Rolls for the year French translation, Harl. MSS. No. 5326. Collated by Blackst. Stats. of the Realm. See p. 442 of the present volume.

. *Inspeximus of the Charta Foresta.* Same date. Latin. Archives of Westm., Durham Cathed., and Oriel College, Oxf. *Originals.* Chart. Roll for the year, No. 25. French translation, Harl. MSS. No. 5326. Collated by Blackst. Stats. of the Realm. See p. 443 of the present volume.

. *Writs for electing 12 Knights in each County to carry the Charters into effect.* London, March 27th. Latin. Entered on Close Roll, membr. 11 d. Printed in Prynne, iii. 848.

. *Writs directing the Sheriffs of England to read the Charters publicly four times every year.* Westminster, March

28th. Latin. Close Roll of the year membr. 8 d., Prynne, iii. 848.

1300. 28th Edward I. *Writs to the Sheriffs of England for proclaiming the Articuli super Cartas.* 15th April. Latin. Close Roll of the year, membr. 7 d. Prynne, iii., 848. Rymer's Fœd. ii., 863.

. *Writs to the Perambulators of the Forest for commencing their view.* Westm. April 1st. Latin. Close Roll, membr. 8 d, III. Prynne, 849. Blackst. Introd.

. Commissions to the Twelve Knights elected on the Articuli super Cartas. May 10th. Latin. Entered on Pat. Roll, membr. 14. Printed in Prynne, iii., 850.

. Writs of Summons to the Sheriffs of England, for a Parliament to meet at Lincoln Jan. 26th, for receiving the report of the Forest Commissioners. La Rose, Sept. 26th, Latin. Entered on Close Roll, membr. 3 d. Printed in Blackst. Introd.

1300-1301. 29th Edward I. Rolls of Perambulations of the Forests, with Patent establishing them. Lincoln, Feb. 14th. Latin. Patent Roll. A Specimen from membr. 8, is printed in Blackst. Introd.

Under this Article it may be noticed, that in the Tower Records are also some distinct rolls of Forest Perambulations; a few of which relate to the reign of Henry III., and others to the 7th, 28th, and 29th years of Edward I., 1279, 1298-1301. In general, however, these Perambulations are entered on the Patent and Close Rolls, which contain grants of public and private privileges. The Rolls of Forest Pleas held by the Justiciaries in Eyre, are also preserved in the Tower, and extend from the 10th year of John, 1208, to the end of the reign of Edward III., 1377.

1305. 34th Edward I. Bull from Pope Clement V., annulling all concessions extorted from the King on account of the Forests and other liberties, and releasing him from the engagements by which he was held to observe them. Lyons, iv Calends of January, (Dec. 29th.) Latin. *Original* with Treasurer of Excheq. Printed in Rymer's Fœd. I., part ii., p. 978.

1305 1306. 34th Edward I. Statute De Tallagio non Concendendo, supposed to be a translation of the Confirmationes Chartarum of 1297, concerning aids, &c. Latin. Printed in Coke's 2nd Institute, 532. Stats. of Realm.

1306. 34th Edward I. Statute of Ordinatio Forestæ. Westminst. May 27th, 28th. Latin. Entered on Great Stat. Roll in Tower, membrane 34. Printed in Stats. of Realm, I. 147. Chap. v. of this Statute is remarkable for containing a revocation of the deafforestations, and Sentence of Excommunication against such as opposed them.

1341. 15th EDWARD III. Great and Forest Charters confirmed, with an ordinance that none be arrested contrary to Magna Charta, in Stat. I. of this year, Chap. i., iii., iv. 15th of Easter Term. French. This Statute is partially revoked by an entry of Session ii. on the back of the Roll, membr. 19. Printed in Stats. of Realm, I. 295.

1368. 42nd Edward III. Confirmation of the Great and Forest Charters, with repeal of Statutes made to the contrary, in Stat. of this year, Chap. I. Westm. May. French. Entered on membr. 3 of the Roll. Printed in Stats. of the Realm, I., 388.

VIII. TABLE SHEWING THE COMMENCEMENT AND TERMINATION OF EVERY YEAR DURING THE REIGN OF KING JOHN, CALCULATED FROM ASCENSION-DAY TO ASCENSION-DAY IN EACH YEAR.

Vide Memoir of King John, page 472.

1st from May 27th	1199	to May 17th	1200
2nd 18th	1200	2nd	1201
3rd 3rd	1201	22nd	1202
4th 23rd	1202	14th	1203
5th 15th	1203	June 2nd	1204
6th June 3rd	1204	May 18th	1205
7th May 19th	1205	10th	1206
8th 11th	1206	30th	1207
9th 31st	1207	14th	1208
10th 15th	1208	6th	1209
11th 7th	1209	26th	1210
12th 27th	1210	11th	1211
13th 12th	1211	2nd	1212
14th 3rd	1212	22nd	1213
15th 23rd	1213	7th	1214
16th 8th	1214	27th	1215
17th 28th	1215	18th	1216
18th 19th	1216	Oct. 19th	1216

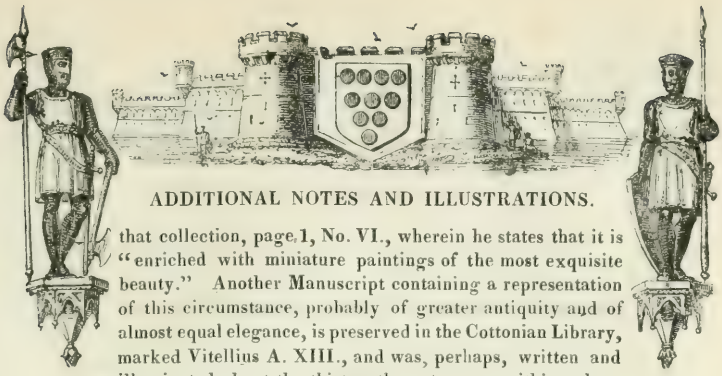
IX. HISTORICAL EXAMINATION INTO THE SUPPOSED DEATH OF KING JOHN BY POISON.

Vide the preceding Essay and Memoir, pages 34, 35, 490, 491.

The very doubtful circumstances attending the decease of this Sovereign, and the several causes assigned for it, have been already more than once referred to in the preceding pages; and the present article is intended to give a more particular account of the arguments and authorities, which have been adduced to support each side of the question.

ADDITIONAL NOTES AND ILLUSTRATIONS.

The subject seems to have been first agitated in that series of publications concerning the evil intentions of the Jesuits, which appeared about the end of the sixteenth and beginning of the seventeenth centuries; when the narrative of the poisoning was recited by Sir Francis Hastings, in his tract, entitled "A watch-word to all religious and true-hearted Englishmen." Lond. 1598, 8vo. This was answered by the celebrated Jesuit Father Robert Parsons, in a work called, "The temperate ward-word against the seditious ward-word of Sir Francis Hastings in behalf of the Popish cause;" in which he considers the story as cited from Caxton's Chronicle to be a novelty, not older than the publication of that work in 1483,—though there was an edition of it printed in 1480;—and, being very unwilling to acknowledge the poison, viewing it as a reproach on Monachism and the Catholic faith, he accuses his antagonist and the Protestants with malice and forgery: though Caxton, John Major, and George Lilly, also Papists, do not hesitate to record it. He also charges the same upon John Fox for relating the story in his "Acts and Monuments;" and particularly censures the malignancy of the latter, for having represented the whole transaction in a large wood-cut of six compartments, though a perfectly fictitious design, all the figures being dressed in the costume of the Author's own times, and King John wearing his crown, even after he had lost it in the Washes at Lincoln. Upon the publication of Speed's "History of Great Britain," in 1611, Dr. John Barkham, Dean of Bocking, who wrote the lives of Henry II. and King John for that work, again brought forward the different accounts of the latter Sovereign's death, and particularly noticed the recent discussion; affirming that there was no malice in affixing to the story of the poisoning, pictures of it "to move hatred of the Monks and their religion." He adds, also, that such persons "were the very first who not only so depictured it, but also lively and richly depainted it in their goodliest manuscripts;" of which he particularly refers to one of the St. Alban's Chronicle in the Library of the Archbishop of Canterbury. See the Rev. H. J. Todd's account of it in his Catalogue of



that collection, page 1, No. VI., wherein he states that it is "enriched with miniature paintings of the most exquisite beauty." Another Manuscript containing a representation of this circumstance, probably of greater antiquity and of almost equal elegance, is preserved in the Cottonian Library, marked Vitellius A. XIII., and was, perhaps, written and illuminated about the thirteenth century, or within a hundred years after King John's death. It consists of eight pages of vellum painted on both sides, with large effigies of the English Sovereigns, from Edward the Confessor to Edward I., having very brief notices of their reigns written beneath them in French, in letters of azure and gold. In the memoir attached to King John, it is stated that he was poisoned at Swineshead by a Brother of the House, and the illumination above represents the Monk kneeling and presenting the King with the cup whilst the whole convent is observing them. This subject, as well as the other drawings of the manuscript, has been engraven by Strutt in his *Regal and Ecclesiastical Antiquities*, and a copy of it is also introduced in the initial letter to the Memoir of King John in the present volume. A third Manuscript containing an illumination of this event, also of the time of Edward I., is observed by Dr. Barkham to have been in Selden's Library, wherein the King is represented at a banquet richly habited, and four Monks coming to him, one of whom presents him with the poisoned cup.

The real cause of this Sovereign's death seems next to have became a subject of discussion, in M. Rapin's History of England; particularly in the edition of 1732-36, translated by the Rev. Nicholas Tindal and Philip Morant, whose objections to the story of his poisoning have been already noticed. From this period the popular tradition seems to have been set aside, until it was revived by several arguments in favour of it, which appeared in the Rev. John Lewis's *Life of William Caxton*, Lond. 1737, 8vo.[a] in his catalogue of that Printer's works,

[a] This rare and curious volume, is said to have been limited to a private impression of 150 copies, all upon thick royal paper, but not of very superior typography. The Life of Caxton is incorporated with a

under the article of *The Chronicle of England;* which contains a very full account of the circumstance. Most of these observations will also be found in the Notes to the Memoir of Caxton in the *Biographia Britannica;* and their historical value and credibility were, in December 1772, considered by the Rev. Samuel Pegge, in a paper printed in the *Archæologia*, Vol. IV., pages 29-46, entitled, "An Enquiry into the nature and causes of King John's Death, wherein it is shewn that it was not effected by Poison." In laying before the reader a short account of this curious discussion, the following notices will shew, firstly, the narratives, arguments, and evidence, adduced *against* the King's death by Poison; and, secondly, those which have been brought forward to *support* it.

To commence, then, with Mr. Pegge's *narrative*. The reader will remember that when King John left Lynn, on October 11th, 1216, his treasures, &c., were all swallowed up by the tide in the river Wellstream, overflowing the Washes between Lincolnshire and Norfolk, even before himself and his army had entirely crossed over. He passed that night at Swineshead-Abbey, a small Monastery of Cistercians, near Boston in Lincolnshire; where he was first taken ill. Those who give credit to his murder, affirm that his disease was the effect of poison; but Mr. Pegge argues that it was actually a fever and dysentery, or flux, produced partly by fatigue, anxiety, and sorrow, and partly by his making an immoderate repast the same night on

descriptive list of his works; which embraces much useful antiquarian research, though it often confuses the original subject, and the whole volume is rather dull in its composition. *The Chronicle of England*, mentioned above, was printed by Caxton at Westminster in 1480, and has thence been called "Caxton's Chronicle;" though the earlier part of it was founded upon a work by Douglas, a Monk of Glastonbury Abbey; the Printer having only continued it to the defeat of Henry VI., at the Battle of Towton in Yorkshire, on Palm Sunday, March 29th, 1461. It was so popular a work, as to be printed four times in the fifteenth century, and the edition of 1483 having been prepared by a schoolmaster of St. Alban's, it received the name of "The St. Alban's Chronicle"; but its narratives have been very much suspected and censured, and it is, perhaps, most celebrated for its very circumstantial account of the poisoning of King John.

peaches and new cyder, of which he was extremely fond, and had often partaken without danger. The King departed from Swineshead on horseback, as some say on the following morning, though others affirm that he remained there two days; but on his way to Sleford Castle he was forced to remove to a litter, in which he was carried to Newark Castle, where he died in a few days after. At this place he first saw his physician, the Abbot of Croxton,—perhaps Ralph de Lincoln,—who had not been with him at Swineshead to control his appetite, and now his malady was past cure: the Abbot after John's death embalmed his remains, when his bowels were buried at Croxton in Leicestershire, and his body in Worcester Cathedral.

The *arguments* used by Mr. Pegge, to prove that such really were the progress and causes of the King's disease and death, are, firstly, the very natural and probable character of the circumstances themselves; and the general use of the word *dysenteria*, by the contemporary Historians to express the King's disease: secondly, a comparison with the decease of Cardinal Wolsey, who died of a dysentery, also produced by grief and vexation, though it was likewise strongly suspected that he had been poisoned: thirdly, that on the body being embowelled, no historian notices the appearance of any sign of venom, or of any suspicion entertained by King John's physician; although such as relate the ordinary tradition affirm that the corse was swelled by the poison: fourthly, the absence of all allusion to the subject in the King's will, where the only notice of his sickness is, that he was prevented being more particular "by grievous infirmity;" though it should be remembered that this instrument was certainly written by an ecclesiastic, and therefore *might* be suspected. And fifthly, Mr. Pegge observes, that no sort of revenge for the supposed murder at Swineshead ever appears to have been taken, nor even an enquiry made into it; although Henry III., with the Earl of Pembroke and others of his powerful friends and followers, were, in the very year after John's death, all triumphant at Newark, the very place where it happened, and but a short distance from the Abbey: which foundation, however,

continued to exist and flourish until the dissolution of Monasteries.

With respect to the *evidence* brought forward to prove that King John did in reality die a natural death, the best and most authentic historian of this period, was *Matthew Paris*, whose narrative exactly agrees with the foregoing, and was that on which Mr. Pegge founded his arguments. This author was probably about fifteen years old at King John's decease in October, 1216; since he was professed a Monk of St. Alban's Abbey in 1217. It is, however, doubted whether the former part of his work, the *Historia Major*, were not written to the year 1235, by one *Roger de Wendover*, Prior of Beauvoir, and one of Matthew's predecessors at St. Alban's, who was certainly contemporary with the event. *Ralph de Coggeshalle*, a learned Cistercian Monk and English Historian, who is supposed to have died in 1228, states that John's sickness and death arose from excessive gluttony; adding that his stomach was always insatiable, and that having devoured to surfeiting at Swineshead, his repast terminated in a dysentery. After the flux had somewhat abated, he adds that the King was blooded at Latford, a town in Lindsey, whither came to him the messengers of those besieged in Dover Castle; but his sickness soon returning he sent for his chaplain, and after a few days more of disease, he died intestate at the Castle of Newark. This assertion, however, the reader will remember to be an error; since the original of John's will is still preserved in the Archives of Worcester Cathedral, and a translation of it has been given on a former page. Another author contemporary with this event, was *Richard de Morins*, compiler of the *Annals of Dunstaple*, who was elected Prior of his House in 1202, and died in 1242; but he merely states, that the King expired at Newark Castle on the morrow of St. Luke. Similar information, or a statement that John deceased of sorrow of mind or a dysentery, is also given in the *Annals of Margan*, a Cistercian Monastery in Glamorganshire, ending in 1232: in the *Annals of Burton*, an Abbey in Staffordshire, which extend to 1263; in the *Chronicle of Mailros*, terminating in 1270: in the *Annals of Waverley* Abbey in

Surrey, concluding in 1291: in the History of the English Kings by *Nicholas Trivet*, who was born in 1260, and continued his work to 1307: in the *Flowers of Histories*, by *Matthew of Westminster*, who flourished about 1307: in the *Historia Major Wintoniensis* by *Thomas Rudborne*, a Monk of Winchester in the fifteenth century: and in the *Continuation of the Chronicle of Croyland*, which was written about the time of Edward IV.—Such are the arguments and authors in favour of the King having died a natural death.

In briefly referring to the *narratives of the poisoning*, it should be noticed that it is said to have been effected in several different ways. That by the venom of a toad infused in wine, has been already mentioned in the preceding Memoir of John; but another tradition states, that the King hearing that the Abbot of Swineshead had a fair sister, a Prioress in the neighbourhood, sent to her; which causing the Abbot some anxiety, the Hospitaller of the House said to him, "Do but absolve me, father, and pray for me, and I will rid the earth of this monster." The Abbot made some scruples, because he was the King; but the Hospitaller knowing that John liked fresh pears, proceeded to provide some that were poisoned, excepting three which were marked, and presented the fruit to the Sovereign. It was supposed at one period, that certain precious stones had the power of detecting poison, and this narrative states, that the gems of the rings which the King then wore,[a] perspired at the approach of the envenomed repast; upon which he demanded of his host, "What is this you have brought me? poison?"—"Not poison," replied the Hospitaller, "but excellent fruit." John then bade him eat some, which he did, taking one of those previously marked, and at the Sovereign's command, ate the two others also; after which the King took one and died the same night. The Hospitaller,

[a] It will be observed in the engravings of King John's monumental effigy, inserted on future pages, that it has royal gloves upon the hands with jewels on the backs; but the gold and gems having been long since taken away, it is said that some of the Vergers of Worcester Cathedral who exhibited the tomb, used formerly to point to the vacant sockets, as the places where the venom first made its appearance.

however, was not put to death for this act, but escaped by assistance of those who were unfriendly to the King.

In noticing this narrative, Mr. Pegge's objections are, that as the relator of it was resident at Gisborough Abbey in Yorkshire, he was too far away to know much of the private transactions at Swineshead, above an hundred miles distant: that some circumstances of the story are purely legendary: that there was no Nunnery near Swineshead which could so easily be sent to: and that the fruit could not well be so soon poisoned, excepting by arsenic, which operates by tearing and lacerating the coats of the stomach and bowels, and not by a flux, of which the King died. He observes, farther, that this account of John's death contains many gross errors, such as its taking place the same night at Swineshead, instead of eight days after at Newark; and that the King was buried October 18th at Winchester, instead of Worcester: the enumeration of John's issue which follows it, contains also several mistakes.

It should next be observed, that the relator of this narrative was *Walter de Hemingford*, or Hemingburgh, a Canon-Regular of St. Austin; whose history extends to the year 1308, and who died in 1347: and his account of the King's decease was copied by *Henry de Knighton*, into his book of the Events of England, which was also written in the fourteenth century. It is asserted by Mr. Morant, that the story of the poisoning is not mentioned by any Author who lived within *sixty years* of the time when it is said to have taken place, or before 1276; but Lewis declares it to be first noticed in the *Chronicle of Peterborough*, the Abbot of which, it being a neighbouring House of importance, would be likely enough to know the event so recorded. But although the first part of that register terminates in 1259, and the Abbot John, (de Caleto or de Caux,) who is said to have compiled it, and under whose name it went, died in 1262,—yet it is affirmed that the book is in reality the work of the fourteenth century; and that it has either been interpolated, or was called, "the Book of the Abbot John," from a later governor of the House named John de Deepings. The passage contained in this Chronicle is, however,

not very decisive, since it states only that the King "being at leisure from destroying and burning Norfolk, came to Swineshead, where, according to some, he was poisoned, and removed to Slafford." Having thus discarded the authority of the Chronicle of Peterborough as contemporary, Mr. Pegge proceeds to assert that no Author has mentioned the poison within *eighty years* after the event; *Bartholomew de Cotton*, a Monk of Norwich, who flourished about 1298, being the first who notices it. He says, "In the year 1216, on St. Luke the Evangelist's day, King John died, being killed by venom at Swineshead, by a certain Hospitaller of the said House, and he is buried at Worcester;" but this statement is erroneous, inasmuch as John was at Newark on the 18th, and deceased there. The doubtful expressions "as it is said,"—"as it is asserted,"—"it is yet reported by vulgar fame," and "the common fame telleth," are used in speaking of the King's murder by *Thomas Wikes*, whose history ends in 1307; *John of Tynemouth*, who flourished in 1386; the *Scali Mundi;* and a manuscript account of the acts of King John in the Cottonian Library, the Author of which died in 1336. Nor are the metrical Chronicles of *Robert of Gloucester* and Peter de Langtoft more particular. The first of these Authors is considered to have flourished and died about 1280, the beginning of the reign of Edward I., and when speaking of the fatal Civil Wars of the Barons and Louis under King John, his words are as follow:

"And ever robb'd the King John, and the North-country wide:
And did the land woe enow and more by het, (promised,)
He brought not all to nought ere he his life let. (left.)
At Newark he died, upon Saint Luke's day,
He was so hasten'd that scarce three days sick he lay:
If any man thereto did help, God it him forgive!
For he had ere this land to much wretchedness ydrive.
In the year of Grace he died, twelve hundred and sixteen,
And seventeen year he was King, and five months I ween,
And five days, and that thought many men long I wis,
At Worcester in the Minster fair yburied he is."

Peter de Langtoft was a still later Historian, being supposed to have died in the time of Edward II., though the Chronicle which passes under his name was really a tran-

slation from Robert de Brunne, terminating in the end of the reign of Edward I. The passage in it concerning John is as follows, and it is remarkable for perpetuating a tradition contrary to the report of all other authors, that this King died at Haugh in Lincolnshire, instead of at Newark: but the circumstance is not recorded in the French original.

"And John reigned in his estre eighteen year.
At the Abbey of Swynesheved there he drank poyson,
At Haugh his life he left, so men say of that town:
A thousand and two hundred, the date was, & sixteen,
His time was all forwondred, & ended all with tene!" (loss,)

Such are the very brief and uncertain reports of the Historians down to this period, though as they become later in date, the story is made more full and particular, and first Walter Hemingburgh gives the statement already referred to; after which appeared the account by *Ralph Higden* in his *Polychronicon*, and that attributed to *William Caxton* in the *St. Alban's Chronicle*, or *Fructus Temporum*. Higden was a Benedictine of the Monastery of St. Werburg in Chester, where he died at an advanced age in 1360, his work being translated into English and increased by John de Trevisa, a Cornish Divine, upwards of a century afterwards. "The common fame telléth," says this chronicler, "that the King swore there at meat, that the loaf of bread, that was then worth an halfpenny, should be worth twelve-pence within the year, if he might live. A Monk of the House heard that, and made him drink of venom, and shrove him (self) and was houseled, and drank to the King as it were his tastor: and so the King and he died both at once." The narrative attributed to Caxton, is, however, more circumstantial, and is as follows, according to the most familiar recital of it in the *Chronicle* of *Richard Grafton*.

"And in the self-same year, King John came to Swinestede Abbey, not far from Lincoln; he rested there two days, where, as certain writers report, he was most traitorously poisoned, by a Monk of the same Abbey, being of the Order of Saint Barnard, called Simon Swinested. And as Caxton saith in his book called Fructus Temporum, and Polychronicon also saith the same, the aforesaid Monk, named Simon, hearing the King upon an occasion to talk of bread, should say that if he lived a year longer, he would make that loaf of bread, being then of the value of one half-penny, worth twelve-pence; meaning that he would so prosecute his rebellious people, that he

would not leave one of them to be the owner of a plough. The Monk hearing the King thus speak, conceived of the King a very evil opinion, insomuch that forthwith the Monk went to his Abbot shewing him the whole matter, and what he was minded to do. He alledged for himself the prophecy of Caiaphas, saying, 'It is better that one man die, than all the people should perish: I am well content,' saith he, 'to die, and to become a martyr, so that I may utterly destroy this tyrant.' With that the Abbot wept for gladness, and much commended his fervent zeal, as he took it. The Monk, then, being absolved of his Abbot for doing of this act beforehand, went secretly into a garden upon the backside, and finding there a most venomous toad, he so pricked him, and pressed him with his penknife, that he made him vomit all the poison that was within him. This done he conveyed it into a cup of wine, and, with a smiling and flattering countenance, he said thus to the King, 'If it shall like your princely Majesty, here is such a cup of wine as ye never drank before in all your life-time, I trust this wassail shall make all England glad.' And with that he drank a great draught, the King pledging him. The Monk anon after went to the Farmory, and there died, his guts gushing out of his belly; and had continually from thenceforth three monks to sing masses for his soul, confirmed by their general Chapter. The King within a short space after, feeling great grief in his body, asked for Simon the Monk; and answer was made that he was departed this life: 'Then God have mercy upon me!' said the King, 'I suspected as much!' With that he commanded his chariot to be brought, for he was not able to ride. So went he from thence to Sleford Castle, and from thence to Newark upon Trent; and there, within less than three days he died, when he had reigned xvii years, vi months, and odd days, and was honourably buried at Worcester, with his armed men attending upon the burial."

This narrative is also recited by the honest, though credulous, John Fox, in the fourth book of the first volume of his "Acts and Monuments;" wherein he concludes that the King was certainly poisoned, though he admits that those who have written of his death are at great variance; some saying, "that he died of sorrow and heaviness of heart, as Polydorus; some of surfeiting in the night, as Radulphus Niger; some of a bloody-flux, as Roger Hovedon; some of a burning ague; some of a cold sweat; some of eating apples, pears, plums, &c."

The principal *argument* in favour of any narrative recording the poison, is, the hatred borne to King John on account of his discourse at the Monastery; whether that related to what he would hereafter do to revenge himself on his subjects; or to his expression of anger, against the invasion of Louis the Dauphin, at which Simon

the Monk was particularly offended, the members of his society being inclined to support him. They are admitted to have been inimical to John, who came to their Abbey for a lodging in the time of his distress, and not from choice as to a party of his own friends; though the force he had with him was quite sufficient to ensure his entertainment. Another argument in favour of the poison is grounded upon a speech uttered by Henry III. to the Prior of Clerkenwell, who boldly said to him, that as soon as he ceased to do justice to his Prelates, he should cease to be a King; upon which the Sovereign answered in anger, "What! then, thou wouldest not cast me forth from my kingdom as my father was formerly cast out, and afterwards suddenly destroyed?" But Matthew Paris, who relates this circumstance, remarks that it was a rash and uncircumspect answer; and Mr. Pegge adds, that it was spoken in a passion in 1252, between thirty and forty years after the event: the word in the original text, also, being *necare*, to slay or destroy, which is very indefinite; and, therefore, the King meant only that his father's troubles were the cause of his death. The last argument for the poisoning is, that certain Monks, some stating three and others five, are actually have said to have been long after employed to sing and pray for the soul of him who had committed the murder. Mr. Pegge, however, replies to this, that neither that circumstance, nor the use of the toad, are mentioned by any historian older than the author of the *Eulogium*,[a] who died about 1366, or 150 years afterward; and he therefore considers that the appointment of these masses might have taken place long subsequent, when the story had become common and generally believed.

In addition to these objections, Mr. Pegge derives several others from the various narratives themselves; though

[a] The manuscript history so called, is preserved in the Cottonian Collection in the British Museum, in a volume marked Galba, E. VII. Art. ii. It is divided into five books, the last of which treats of Britain and its Sovereigns from Brute down to Edward III., about 1367, though it is continued down to the year 1413 by another hand. The original Author is uncertain, but he is supposed to have been a Monk of Canterbury, named Ninianus, who died about 1366.

he properly questions Morant's assertion, that a man would not destroy himself from revenge, or what he thought to be religious zeal for the public good. He notices, however, the different motives assigned to the Monk, and the several reports concerning the price to which John affirmed that bread should be advanced; Ralph Higden stating it to be 12*d.*, Caxton 20*s.*, the Polychronicon 20*d.*, and the MS. Eulogium "a pound of bread as a pound of silver." He notices farther, the discordance concerning the Monk's own fate, Higden and Caxton affirming that he died from partaking of the poison, and Hemingburgh that he escaped and survived. He adds, likewise, that the time required for his confession, absolution, and preparation of the venom, would be too long for the King not to have risen from table; therefore the accounts which state that he was absolved only, are the more probable. Mr. Pegge also refers to the different materials said to have been used for the poison, and particularly questions whether the liquid drawn from a toad would be at all noxious. For he observes that Pennant states, that it is well known that quacks have eaten toads, and have even drank with impunity of their juices expressed into a glass; which is said to have been the venom employed against King John. This is, in some degree, confirmed in Dr. Shaw's *Zoology*, Vol. iii. part i. p. 143, where he says that the limpid fluid which these animals suddenly discharge when disturbed, is a mere watery liquor, perfectly free from acrimonious or noxious qualities; and that the common toad may therefore be pronounced innoxious, or quite free from any poisonous properties, at least with respect to any of the larger animals. To this he adds, that the innumerable tales recited by the old writers of its supposed venom, appear to be either gross exaggerations, or else to have related to the effects of some other species mistaken for the common toad; it being certain that some of this genus exude from their skin a highly acrimonius fluid.

Lastly, it is objected, that the story of the poison took its rise and became popular, from the King's death having happened at a critical time, and in an enemy's quarter; of a very short illness when he was in great perplexity, and

knew not whom to trust, no where to be safe. Hence it would be natural for the common people to conjecture the probability of poison, since such suspicions have often followed the deaths of great personages; and that which was at first only surmise, being afterwards frequently repeated and embellished by Monkish Historians who were opposed to the King, at length grew into positive assertion.

X. ACCOUNT OF THE INTERMENT AND DISCOVERY OF THE BODY OF KING JOHN IN WORCESTER CATHEDRAL.

Vide the preceding Memoir, page 491.

It was for some time doubtful in what part of this edifice the remains of King John were interred; for, it has been well observed, that the perplexities which attended this Monarch through his life, appear to have taken up their habitation with him even in his grave. As it has, however, been a point of posthumous interest in the memoirs of this King, it will not be uninteresting to give some account of this antiquarian discussion, and of the manner in which it was at length decided.

To commence, then, with a description of the Monarch's commonly-supposed place of sepulture, Dr. Thomas in his *Survey of the Cathedral Church of Worcester*, London, 1736, 4to., has the following account of his tomb.—"In the choir before the High-Altar, on a fair raised marble monument, lieth his portraiture in his royal ornaments, wearing a crown on his head, wherein is written Johannes Rex Angliæ; in his right hand a sceptre now broken, his left on his sword hanging by his side, at his feet a lyon rampant, Or, and below, in eight several panes, are shields charged with Gules, 3 lyons passant guardant, Or. So shineth he all in gold, between two Bishops censing him; signifying, I think, St. Oswald, Archbishop of York, and St. Wulstan, between whose two sepulchres or shrines he bequeathed his

body to rest; for, on the North side under the wall of the choir, St. Oswald, Archbishop of York, and Bishop of Worcester was buried, where there was a plain marble stone, now gone: unless that were his tomb or monument, which, being raised on the outside of the same wall, resembleth a Bishop vested for the altar, with his mitre on his head, supported by two angels and a lyon at his feet, all under an arch, and somewhat defaced. And on the South and outward wall of the choir, answerable to this, is St. Wolston's raised monument, representing a Bishop with a rich mitre, and gloriously vested in his pontificalibus; at his head and feet are angels, and on the side of the tomb, St. Peter and St. Paul with other Saints, on several panes engraved." The figure of the King, which is exhibited in the annexed wood cut, and in the engraving at the end of his Memoir, page 496 of the present volume; is, says Dr. Thomas, "as big as the life, and the two Bishops at his head in little, are carved in one stone of grey marble, which seemeth to be as ancient as the time of Henry III., but the altar-tomb on which it is placed, is of a modern fabric."



Mr. Valentine Green, however, supposed this spot not to have been the original grave. From his statements it would appear that the King's monument formerly stood between the choir and the high-altar, which was once situate at the extremity of the present building, beneath the great East window; where, he relates, in 1790 was remaining a dark sepulchral stone, so perfectly agreeing with the tomb near the choir, as left no doubt of its having formed the original base. In the year 1216, when the King's body was here deposited, the Cathedral was undergoing a repair from a great fire which had nearly consumed it in 1202. In 1218, the building being completed, the Church was re-consecrated, and after this time an alteration took place in the former disposition of it,

by the appropriation of the most Eastern part of the middle aisle, to the service of a Chapel for the Virgin. What was formerly the high-altar, was then, it is supposed, dedicated to other duties, and was called by the name of the Saint to whom the Chapel was devoted, until the dissolution of the Monastery belonging to this Cathedral: and the royal remains were considered to have received great additional sanctity, in having been left undisturbed in so holy a part of the Church.

A short time before the surrender of the Monastic treasures of this place in 1540, Leland[a] relates that one Alchurch, who was Sacrist, re-edified the sepulchre of King John, and the Chapel of Prince Arthur upon the South: from which is gathered the fact, that this renovation related to the site of the *present* monument, and not to that of the *ancient* one. It is also supposed, that this memorandum furnishes the time when the Cenotaph now existing was first erected; and the King's remains, with his stone effigy, transferred to it from the sepulchral base in the Lady-Chapel. The situation of this Cenotaph is in the centre of the choir, and immediately before the steps leading up to the altar, beneath which, it appears, is the great vault: the space between the pavement of the choir, and the level directly above the arches of the vault, is only one foot, consequently any remains must be placed above the pavement, and within the altar-tomb.

Such are Mr. Green's principal arguments against the body of King John having been originally deposited where his monument now stands; in which he seems to be supported by the conjectures of other authors. Dr. Stukeley[b] says, "The Collegiate Church is stately enough: in it is buried the restless King John; not where now his monument stands in the choir before the high-altar, but under a little stone before the altar of the Easternmost wall of the Church: on each side of him, upon the ground, lie the effigies of the two holy Bishops, and his chief saints, Wolstan and Oswald, from whose vicinity he hoped to be safe from

[a] Itinerary, Vol. VIII. page 106, 3 Edit. Hearne, Oxon. 1769, 8vo.
[b] Itinerararium Curiosum, Centuria I. Lond. 1776, page 68.

harm: the image of the King likewise, I suppose, formerly lay here upon the ground, now elevated upon a tomb, in the choir as aforesaid." Gough in his *Sepulchral Monuments*, (Part i.[a]) seems also to agree with this notion, since, in his description of John's Tomb, he says, "The royal body is supposed to lie under Lady-chapel, in a stone vault, in a strong chest, in which, upon opening, was found a leaden coffin, but without any marks or inscription. The tomb above-ground being also opened was found quite empty. The Annals of Worcester, published by Mr. Wharton, expressly say, he was buried *coram magna altari inter. SS. Oswaldum et Wulstanum.* The then choir was afterwards converted into the Lady-chapel; and when the high-altar was placed where the communion-table now stands, and the floor of the new choir had gained a considerable elevation by a subterraneous vault made underneath, the King's Tomb, now hidden from view, was taken down and erected before the new high-altar, as it had formerly stood between the sepulchres of the two Bishops. From this relation, as well as from Green's history, it seems that the bodies of the Saints Oswald and Wulstan, were not more stationary in their monuments than that of King John; as they were also translated from their original burial-places into portable shrines for the purpose of carrying in ceremonial processions. It is supposed, that at last these shrines were fixed in the side-aisles of the Lady-chapel, and that their tombs which lay before the altar in the middle one, were left undestroyed, but vacant. A great degree of sanctity was, however, attached to both of these resting-places, and, upon the destruction of those shrines, a part of the devotion, formerly paid to the Saints, was transferred to the tombs of two Bishops which stood near them."

Mr. Green[b] continues to observe, that the body of King John is, in reality, supposed to be deposited in a deep sepulchral vault in St. Mary's Chapel, between two grave-stones, which bear the effigies of ancient Bishops. The vault, he relates, was of stone, and contained a strong chest,

[a] London, 1786, fol. page 37.
[b] History of Worcester, pages 70-74.

in which was a leaden coffin, as already described in the extract from Gough; and if within this "be not the body of the King," adds the historian, "we must be content with an absolute ignorance of the place where it lies."

Although it would appear that these different tombs have been opened, yet the question was not perfectly decided until the present Cenotaph was searched in 1797, when there was found sufficient evidence that the King's body lay within it; and previous to giving some notices of this celebrated examination, it will not be improper to state a few particulars of the former ones. In Mr. Green's work is the copy of a MS. note inserted in Dr. Thomas's Survey of Worcester Cathedral, which states that on July 24th, 1754, the sepulchre of John was found within the modern monument: that it was made of purbeck marble, painted of a vermillion colour, ornamented with gold lions: that this sarcophagus was covered with wood, over which were laid some flat sandstones; and that the spaces were filled with rubbish. The other grave in St. Mary's vault, has also been repeatedly opened; and the coffin each time ascertained to be there. The subject of King John's burial having been again brought forward in the *Gentleman's Magazine* for October, 1819, pages 307-310; after quoting from Chambers' History of Worcester, a notice is there given from the memoranda of a Mr. Jeal, Sexton of the Cathedral, concerning another examination beneath the stone at the East end of the Church. It relates that, on Tuesday, November 26th, 1793, in the presence of the Dean and some others, the stone was removed, when they discovered several bones placed in the fragment of a stone coffin, but without any appearance of either lead or wood. They also searched into one of the side graves, on which is laid an episcopal effigy, and made a similar discovery; and, from the circumstances of the centre coffin being broken, and the other being covered only by the effigy, Mr. Jeal supposed that the figure of King John, now in the choir, was once placed over the mutilated coffin in the same manner.

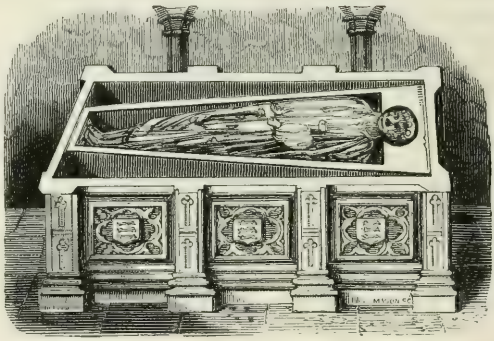
Thus it was that doubt upon the subject continued to prevail, when, at a repair of the Cathedral, Mr. Green sug-

gested the opening of the present Cenotaph, to ascertain, if possible, whether the royal remains might not at last be there. Accordingly on Monday, the 17th of July, 1797, the tomb was opened, and a stone coffin was found within containing a skeleton, whose scull was detached and lying in a different position to the body. Some of the teeth and anatomical details were in good preservation, but, notwithstanding the remains had been embalmed by Thomas de Wodestoke, Abbot of Croxton, there were evident marks of putrefaction. This ecclesiastic was the physician of King John, and preserved his heart and bowels at Croxton Abbey in the County of Stafford

The dress discovered upon the body, was similar to that upon the effigy on the exterior; excepting that there were no gloves upon the hands, and that, instead of a crown, a monk's cowl, used by the King's desire as a preservative against evil spirits, was found upon his head. This fitted very exactly, but the buckles or clasps of the straps were gone, having probably been of some precious material, and were most likely removed during the Civil Wars. The body was clothed in a long robe, which seemed to have been of crimson damask of a peculiarly strong texture, and some of its embroidery remained near the right knee; the whole object was then, however, of a dusky brown. The legs were covered with an ornamented close dress tied at the ankles, whilst the bones of the feet were visible through the decayed parts of the drapery, of which no account could state the material with certainty. The left hand, as in the stone effigy, once held a sword, but it was then greatly mutilated and scattered down the same side of the body. The whole length of these remains measured five feet six inches and a half.

The coffin found within the tomb was of the plain white Higley stone of Worcestershire, and was broken by a considerable fracture which appeared to cross it obliquely. It was discovered laid upon the choir pavement, without being let into it, and its original lid is the stone on which the King's effigy is carved, that fitting it exactly in every part. The tomb remained open but a very short period, for so great was the impatience of the multitude to view its con-

tents, that it was found prudent to close them up on the following day. Notwithstanding this discovery of the royal body, Mr. Green still held his own conjectures about its original place of burial; he however published a particular account of this examination, with a plate representing the appearance of the corse, a copy of which is inserted beneath. Statements by other hands have also been printed in the *Gentleman's Magazine*, for 1797, Part ii. and in the Supplement to Dr. Nash's *History of Worcestershire*, Vol. ii. page 88.



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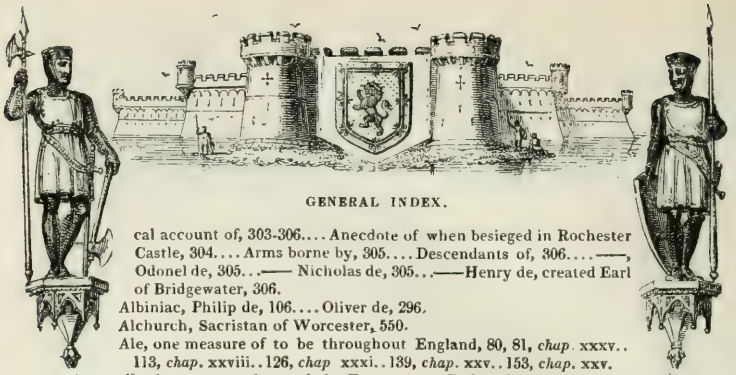
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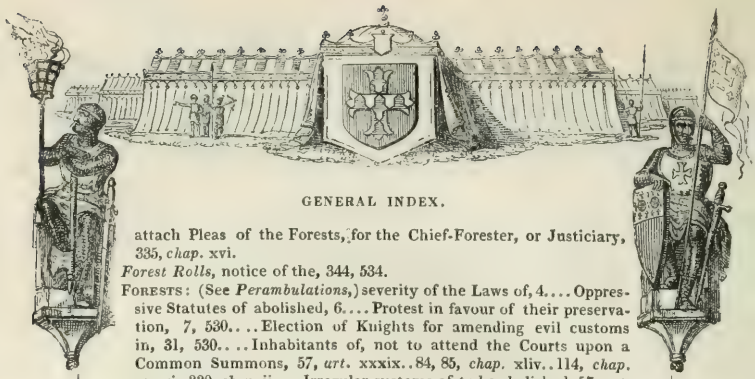
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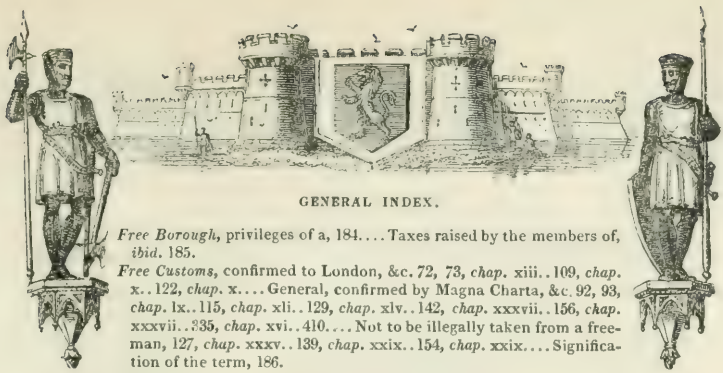
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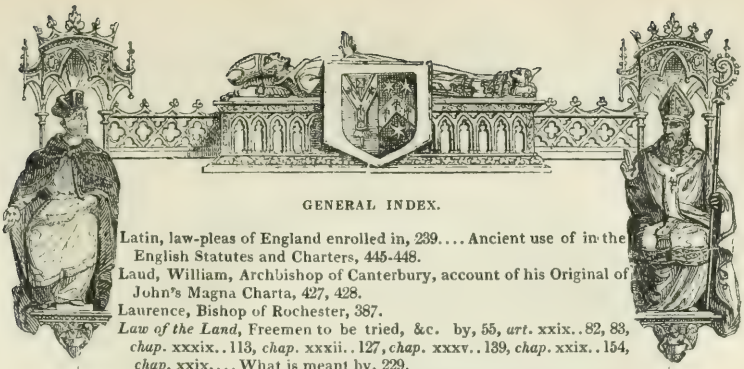
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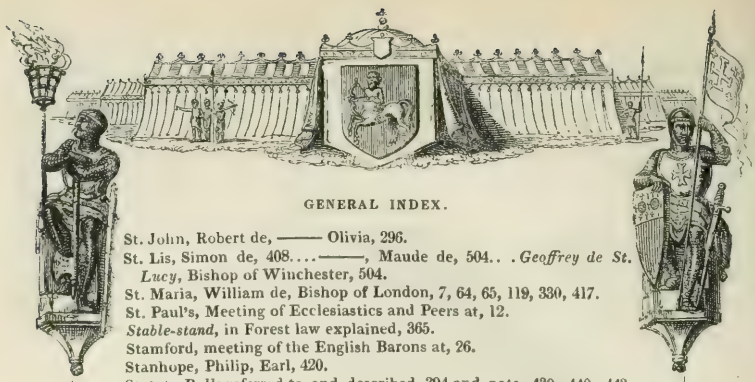
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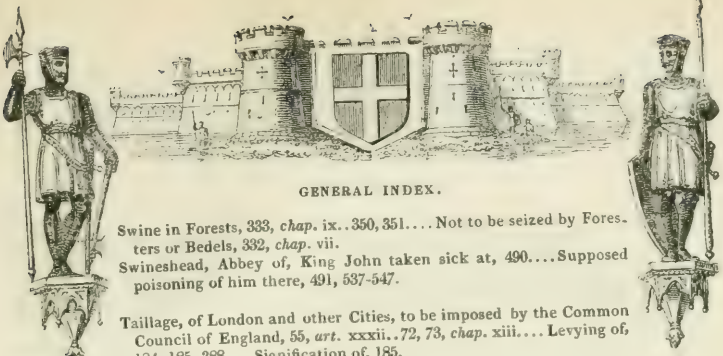
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